SUPREME COURT, U. S.

Office-Supreme Court, U.S.
FILED
MAR 11 1969
JOHN F. DAVIS, CLERK

APPENDIX

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

No. 705

JOSEPH Q. CIPRIANO,

Petitioner,

—v.—

CITY OF HOUMA, ET ALS,

Respondents.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

Franklin Printing Company, Inc. • 209 Magazine St. • New Orleans • 522-9654

DOCKETED NOVEMBER 1, 1968
JURISDICTION JANUARY 27, 1969

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CIVIL DOCKET
UNITED STATES DISTRICT COURT
THREE JUDGE COURT.
JUDGES WISDOM, COMISKEY AND RUBIN

Judges Wisdom, Comiskey and Rubin
Section C
Jury demand date:

D. C. Form No. 106A Rev.

TITLE OF CASE	ATTORNEYS
JOSEPH Q. CIPRIANO VERSUS CITY OF HOUMA, G. LESLIE BROUSSARD, MAYOR, CHRISTIAN L. OLIVIER, CHARLES DAVIDSON, PETER BOURGEOIS, JR. SAMUEL LUSCO AND WILBERT P. BONVILLIAN	For plaintiff: Kenneth T. Watkins WATKINS, WATKINS AND WALKER 415 Goode Street Houma, Louisiana 70361 (Phone: 872-3256) FOR INTERVENOR Jack P. F. Gremillion, Atty Gen'l P. O. Box 44005 Baton Rouge, La. and William V. Redmann, Exec. Counsel to the Governor For: Intervenor-Defendant, State of Louisiana For defendant: E. E. Huppenbauer, Jr., T.A. 707 National Bank of Commerce Bldg. New Orleans, La. 70112 (COX, BAGOT & HUPPENBAUER) AND Ted J. Borowski, City Attorney City of Houma 1626 Barrow St. Houma, La. 70361 As Amicus Curiae: (La. Security Dealers Association) Kenneth W. Ford, Esq. Suite 2313—225 Baronne St., New Orleans, La. 70112

STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed	Clerk		12-18-67	Watkins, W.	15.00	15.00
J.S. 6 mailed	Marshal		12-21-67	C.D. #32		(Appeal)
Basis of Action:			9- 9-68	Watkins, W.	5.00	
To redress deprivation of equal rights, under Constitution, Injunctive Relief; and for 3-Judge Court	Docket fee		9-10-68	C.D. #15		5.00
Action arose at:	Witness fees Depositions					

Kenneth C. DeJean
Special Counsel to Atty. Gen'l
P. O. Box 44005
Baton Rouge, La.
R. Gordon Kean, Jr.
P. O. Box 1588
Baton Rouge, La.
FOR: La. Municipal Ass'n.

DOCKET SHEET

Date	Proceedings	Page #
12/18/67	Flg. Complaint. Issg. 7 summons. THREE JUDGE COURT REQUESTED.	1-7
1/ 9/68	Flg. ORDER by Chief Judge John R. Brown appointing three judge panel consisting of the Hon. John Minor Wisdom, U. S. Circuit Judge and the Hons. James R. Comiskey and Alvin B. Rubin. Ent. 1/18/68. Issg. notices.	8-14
2/ 8/68	Flg. ANSWER of City of Houma, G. Leslie Broussard, Mayor, Christian L. Oliver, Charles Davidson, Peter Bourgeois, Jr., Samuel Lusco and Wilbert P. Bonvillain, members of the Board of Aldermen of the City of Houma	26-28
2/ 9/68	Fig. TRIAL REQUEST by Defts.	29
2/16/68	Conference held on Friday, 2/16/68, to discuss setting of this case for trial, etc. Tenative trial dates were discussed, and it was agreed that counsel would be notified of the date fixed, etc. Ent. 2/20/68. Issg. notices.	30
2/26/68	ORDERED that the trial is assigned for 3/28/68, 2:30 P.M., in the Court of Appeals courtroom, Room 416, 400 Royal St., N.O., La. Ent. 3/1/68. Issg. notices.	31
3/21/68	Flg. stipulation of facts by all parties. (exhibits attached)	33-38
3/28/68	Flg. Motion to intervene as defendant by the State of Louisiana.	91-92

DOCKET SHEET

Date	Proceedings	Page #
3/28/68	Flg. Petition for permission to file brief as amicus curaie by La. Municipal Assoc.	93-95
3/28/68	CASE CALLED; Submitted. Counsel for plaintiff is given 10 days in which to file supplemental briefs and counsel for defendants are given five days thereafter in which to file reply briefs. (J. Wisdom, Rubin & Comiskey) Ent. 4/8/68.	96
4/19/68	Flg. Petition for permission to file brief as amicus curiae by the Loiusiana Security Dealers Association, Inc., for reasons herein etc., and ORDER (ABR 4/22/68) permitting the filing of briefs as amicus curiate etc. Ent. 4/24/68. issg notices.	99-101
7/15/68	Flg. OPINION by the Court; Judgment will be entered for the deft. ABR, JAC, and Judge Wisdom dissenting. Ent. 7/15/68. Issg. notices.	102-115
7/23/68	Flg. JUDGMENT; ORDERED that there be judgment in favor of defts., and against pltf., dismissing suit with costs. JMW, ABR, JAC. Ent. 7/25/68. Issg. notices.	116
9/ 6/68	Flg. notice of appeal to the Supreme court of the U.S. by Pltf. CLOSED CASE	117
9/ 6/68	Flg. Proof of service—Affidavit, by plaintiff's counsel.	118-120

DOCKET SHEET

Date	Proceedings	Page #
9/ 6/68	Flg. plaintiff's request to clerk to certify and transmit entire record to the U. S. Supreme Court.	121
10/28/68	Flg. Motion by Plaintiff-Appellant and ORDER (JMW), that the documents and papers in this action etc., be forwarded to the Clerk of The Supreme Court of the U. S. etc., Ent. 10/28/68. issg. notice.	122-123
10/30/68	Flg. Reporter's transcript of hearing on 3/29/68.	124-169

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

CIVIL ACTION

No. 67-1853

SECTION C

JOSEPH Q. CIPRIANO,

Petitioner,

versus

CITY OF HOUMA, ET ALS,

Respondents.

67-1853
Section C

[1]

Law Offices
WATKINS, WATKINS & WALKER
415 Goode Street

Post Office Box 1047
Telephone 872-3256
Houma, Louisiana 70360

Kenneth Watkins
J. Louis Watkins, Jr.
James C. Walker, Jr.
Van F. Ellender

December 18, 1967

Section C
67-1853

Honorable A. Dallam O'Brien
Clerk, United States District Court
Eastern District of Louisiana
400 Royal Street
New Orleans, Louisiana
Re: Cipriano vs. City of Houma

Dear Mr. O'Brien:

Pursuant to Rule 14 of the United States District Court for the Eastern District of Louisiana, notice is hereby given to you in writing that the above-captioned action is throught to require a three judge court for its disposition, such jurisdiction being requested and invoked under the provisions of 28 U.S. Code 2284, 1343, 2201, 2202, and 42 U.S. Code 1981-85, and the Fourteenth Amendment to the United States Constitution, attacking the constitutionality of the provisions of Article XIV, Section 14 (a) of the Louisiana Constitution, and Louisiana Revised Statutes, Title 39, Section 508 and Title 33, Section 4258 on the basis that such provisions deprive plaintiffs of their right to vote by requiring that they own and pay taxes on property.

All pleadings are hereby filed in quadruplicate in accordance with the provisions of Rule 14.

Respectfully yours,

WATKINS, WATKINS & WALKER
/s/ K. WATKINS
KENNETH WATKINS

KW/d
Encls.

Filed
U. S. District Court
Eastern District of La.
Dec 18, 3:12 PM '67
A. Dallam O'Brien, Jr.
Clerk
B

J. S. 5

[2] UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

CIVIL ACTION

No. 67-1853

SECTION C

JOSEPH Q. CIPRIANO

VS.

CITY OF HOUMA,
G. LESLIE BROUSSARD, Mayor,
CHRISTIAN L. OLIVIER, CHARLES DAVIDSON,
PETER BOURGEOIS, JR., SAMUEL LUSCO and
WILBERT P. BONVILLAIN

PETITION

NOW COMES Joseph Q. Cipriano, plaintiff herein, and states as follows:

I.

Plaintiff is a citizen of the United States and resides in the City of Houma, Parish of Terrebonne, State of Louisiana. The defendant City of Houma is a municipality organized under the laws of Louisiana and G. Leslie Brous-

sard, Christian L. Olivier, Charles Davidson, Peter Bourgeois, Jr., Samuel Lusco, and Wilbert P. Bonvillain are the Mayor and Board of Aldermen, respectively, of the defendant City, are all residents of the Parish of Terrebonne, State of Louisiana, and constitute the governing authority of the said City of Houma.

The jurisdiction of this Court is invoked pursuant to the Fourteenth Amendment to the United States Constitution, the provisions of Title 28, U.S. Code, § 1343, 2201 and 2202, this being a suit in equity authorized by Title 42 U.S. Code § 1983, brought to redress the deprivation, *under color of State law, statute*, ordinance, regulation, custom or usage, of rights, privileges, and immunities secured by the Constitution and Laws of the United States providing for equal rights of citizens. The rights here sought to be redressed are rights guaranteed by the due process and equal protection clauses of the Fourteenth Amendment of the Constitution of the United States and by Title 42 U.S. Code § 1981-1985, as hereinafter more fully appears.

[3] This action is brought under the provisions of Rule 65 of the Federal Rules of Civil Procedure seeking an injunction. This is a class action under Rule 23 of the Federal Rules of Civil Procedure; plaintiff is a member of a class so numerous that joinder of all members is impracticable, there are questions of law and fact common to the class, the claims of the representative parties are typical of the claims of the class, and the representative parties will fairly and adequately protect the interests of the class.

II.

On September 12, 1967, the defendant, City of Houma, adopted, pursuant to Article XIV, Section 14 (a) of the Louisiana Constitution, and Louisiana Revised Statutes,

Title 39, Section 508 and Title 33, Section 4258, a resolution ordering and calling a special election to be held in the City of Houma to authorize the issuance of utility revenue bonds by said City. The resolution calling said election restricted said election to resident property taxpayers of said City. Thereafter, at the election held on October 24, 1967, neither the plaintiff nor any other similarly situated and otherwise qualified, non-property taxpayer voters were permitted by the defendants to vote in said election.

III.

Plaintiff and others in the class described hereinabove were deprived, solely because of their failure to own property subject to taxation and to pay property taxes thereon, of the elective franchise in the abovementioned election by the City of Houma, and they were thereby discriminated against in favor of persons who owned sufficient property to be subject to, and pay taxes thereon.

IV.

The provisions of the Constitution and Statutes of the State of Louisiana specified hereinabove, which had the effect of requiring ownership of property subject to, and payment of property taxes as a condition of voting in the abovementioned election, discriminate against plaintiff and others similarly situated, depriving them of their rights, privileges and immunities under the equal protection and due process clauses of the Fourteenth Amendment to the Constitution of the United States, and are therefore unconstitutional and void.

[4] V.

Defendants, by engaging in the enforcement, execution and administration of the provisions of the Constitu-

tion and Statutes of Louisiana specified hereinabove, have deprived and will continue to deprive, unless restrained, plaintiff and others similarly situated of their rights under the equal protection and due process clauses of the Fourteenth Amendment to the Constitution of the United States.

VI.

The damage and injury done to plaintiff by reason of their being deprived of the foregoing rights is continuing and irreparable and there is no adequate remedy at law.

WHEREFORE, plaintiff prays that this Court:

A. Convene a statutory court of three judges pursuant to Title 28, United States Code, § 2284, for the purpose of hearing and determining this cause.

B. Adjudge and declare to be in violation of the Constitution of the United States, and therefore void, all provisions of the Constitution and statutes of Louisiana which have the effect of requiring ownership of property and payment of taxes thereon as a condition of voting in elections in that State, and adjudge and declare the election held by the City of Houma on October 24, 1967 to be null and void and without effect.

C. Issue a preliminary and permanent injunction—

(1) Restraining and preventing defendants, their agents, servants, and employees and all other persons in active concert with them who receive actual notice of the order of the Court by personal service or otherwise from enforcing, executing, administering, or in any manner giving effect to, the provisions of the Constitution and statutes of Louisiana which have the effect of requiring ownership of property and payment of taxes thereon as a condition of voting in elections in that State.

[5] (2) Restraining and enjoining defendants, their agents, servants and employees and all other persons in active concert with them from issuing bonds pursuant to said election, held on October 24, 1967.

(3) Directing defendants (a) to notify those governmental officials and governmental boards and bodies of the City of Houma, the activities of which said defendants are authorized by law to supervise, direct or coordinate, that the provisions of the Constitution and statutes of Louisiana which have the effect of requiring ownership of property and payment of taxes thereon as a condition of voting in elections in that State, are unconstitutional and void, and (b) to instruct said governmental officials and governmental boards and bodies to cease enforcing, executing, administering or in any manner giving effect to, the provisions of the Constitution and statutes of Louisiana which have the effect of requiring ownership of property and payment of taxes thereon as a condition of voting in elections in that State.

D. Grant plaintiffs such other and further relief as may be just and equitable in the premises.

WATKINS, WATKINS & WALKER
Kenneth T. Watkins

/s/ KENNETH T. WATKINS
415 Goode Street
Houma, Louisiana 70361
Telephone 872-3256
Attorneys for Plaintiff

Plaintiff's address:
P. O. Box 10-125
Houma, Louisiana

[6] VERIFICATION

UNITED STATES OF AMERICA
STATE OF LOUISIANA
PARISH OF TERREBONNE

I, the undersigned, Joseph Q. Cipriano, being first duly sworn on oath depose and say: That I am a resident and citizen of the City of Houma, in the State of Louisiana; that I am the plaintiff named and described in the foregoing complaint; that I know the contents thereof and as to all the matters of fact therein stated and same is true, and as to all matters therein stated on information and belief, I believe them to be true.

/s/ JOSEPH Q. CIPRIANO
JOSEPH Q. CIPRIANO

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 18th DAY
OF DECEMBER, 1967.

/s/ KENNETH T. WATKINS
NOTARY PUBLIC

[7] PLEASE SERVE
CITY OF HOUMA
through its Mayor,

G. Lesile Broussard
City Hall
Houma, Louisiana

G. LESLIE BROUSSARD, Mayor
908 High Street
or City Hall
Houma, Louisiana

CHRISTIAN L. OLIVIER
1305 Point Street
or 605 East Main Street
Houma, Louisiana

CHARLES DAVIDSON
401 Dunn Street
or 1406 Tunnel Boulevard
Houma, Louisiana

PETER BOURGEOIS, JR.
501 Buena Vista Boulevard
Houma, Louisiana

SAMUEL LUSCO
301 Morgan Street
Houma, Louisiana

WILBERT P. BONVILLAIN
East Park Avenue
Houma, Louisiana

Filed
U. S. District Court
Eastern District of La.
Jan 9, 11:08 AM '68
A. Dallam O'Brien, Jr.
Clerk
B

Jan 18 1968

[8]

IN THE
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

CIVIL ACTION
No. 67-1853

JOSEPH Q. CIPRIANO
VS.
CITY OF HOUMA, ET AL

The Honorable Alvin B. Rubin, United States District Judge for the Eastern District of Louisiana, to whom an

application for injunction and other relief has been presented in the above styled and numbered cause, having notified me that the action is one required by act of Congress to be heard and determined by a District Court of three Judges, I, John R. Brown, Chief Judge of the Fifth Circuit, hereby designate the Honorable John Minor Wisdom, United States Circuit Judge, and the Honorable James A. Comiskey, United States District Judge for the Eastern District of Louisiana, to serve with Judge Rubin as members of, and with him to constitute the said Court to hear and determine the action.

WITNESS my hand this 4th day of January, 1968.

/s/ JOHN R. BROWN
JOHN R. BROWN
Chief Judge
Fifth Circuit

Ken T. Watkins
Ted J. Borowski

[9 thru 25] * * * * *

Filed
U. S. District Court
Eastern District of La.
Feb 8, 1:48 PM '68
A. Dallam O'Brien, Jr.
Clerk
B

[26] (TITLE OMITTED IN PRINTING)

ANSWER

NOW INTO COURT, through undersigned counsel, come the City of Houma, G. Leslie Broussard, Mayor,

Christian L. Olivier, Charles Davidson, Peter Bourgeois, Jr., Samuel Lusco and Wilbert P. Bonvillain, members of the Board of Aldermen of the City of Houma, made defendants herein, and for answer to plaintiff's complaint say:

FIRST DEFENSE

The complaint filed herein fails to state a claim against the defendants upon which relief can be granted.

SECOND DEFENSE

Defendants deny paragraphs I, II, III, IV, V and VI of plaintiff's complaint, except such allegations therein set forth as may be hereinafter admitted.

Defendants admit plaintiff is a citizen of the United States and resides in the City of Houma, Parish of Terrebonne, State of Louisiana.

Defendants further admit that the City of Houma is a municipality organized under the laws of the State of Louisiana and G. Leslie Broussard, Christian L. Olivier, Charles Davidson, Peter Bourgeois, Jr., Samuel Lusco and Wilbert P. Bonvillain are the Mayor and Board of Aldermen, respectively, of the defendant City, are all residents of the Parish of Terrebonne, State of Louisiana, and constitute the governing authority of the City of Houma.

[27] Defendants further admit that on September 12, 1967, the Mayor and Board of Aldermen of the City of Houma adopted a resolution ordering and calling a special election to be held in the City of Houma, State of Louisiana, under the authority conferred by Part II, Chapter 4, Title 39, and Sub-Part C, Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950, and other constitutional and statutory authority supplemental thereto, that

an election was held pursuant to said resolution on October 24, 1967, that 1828 voters representing an assessed valuation of $2,736,258.00 voted in favor of said proposition and 896 voters representing an assessed valuation of $1,108,268.00 voted against said proposition, and that said proposition was carried by a majority of 932 votes in number, representing an assessed valuation of $1,627,990.00.

THIRD DEFENSE

Defendants aver that injunction is an improper remedy (1) to restrain and enjoin defendants, their agents, servants and employees from issuing bonds pursuant to the authorization of the election held on October 24, 1967, and (2) to enjoin the enforcement and execution of the election statutes of the State of Louisiana insofar as they apply to said election, as plaintiff's complaint was filed herein fifty-five days after the date of said election and an adequate remedy at law is provided and exists in state courts under Louisiana law for plaintiff to contest the validity of said election and the issuance of said bonds; that injunction proceedings can only apply prospectively, i.e., to elections to be called by defendants hereafter.

WHEREFORE, defendants pray that plaintiff's demands be dismissed at plaintiff's costs, and for all such orders, decrees and judgments to which your defendants may be entitled in the premises, and for all general and equitable relief.

/s/ TED J. BOROWSKI
TED J. BOROWSKI,
City Attorney
City of Houma
Attorney for Defendant
1626 Barrow Street
Houma, Louisiana 70361

/s/ E. E. HUPPENBAUER, JR.
E. E. HUPPENBAUER, JR.
Attorney for Defendant
707 National Bank of
Commerce Bldg.
New Orleans, Louisiana 70112

OF COUNSEL:
COX, BAGOT & HUPPENBAUER
New Orleans, Louisiana

[28] (CERTIFICATE OMITTED IN PRINTING)

Feb 9 1968
U. S. District Court
Eastern District of La.
Filed Feb 9 1968
A. Dallam O'Brien, Jr.
Clerk

[29] COX, BAGOT & HUPPENBAUER
Attorneys and Counsellors at Law
707 National Bank of Commerce Building
New Orleans, Louisiana 70112

John W. Cox
Michael H. Bagot
Eugene E. Huppenbauer, Jr.

Gene Wallace
Gunther R. Michaelis
Jerry R. Osborne

Telephone 524-3212

February 8, 1968

Hon. A. Dallam O'Brien, Jr., Clerk
United States District Court
400 Royal Street
New Orleans, Louisiana

Re: Joseph Q. Cipriano vs.
City of Houma, et al
Civil Action No. 67-1853
Section "C"

Dear Mr. O'Brien:

On behalf of the City of Houma and the other named defendants in the above captioned proceedings, we have this day filed an answer in said civil action and as a result thereof, issue is now joined.

This is an injunctive proceeding brought against the City of Houma and its officials to enjoin certain action on behalf of said defendants as well as to declare null and void certain statutory procedures under the Louisiana revenue bond voting statutes. Accordingly, this is a three judge court case and a panel comprising Judges Wisdom, Rubin and Comiskey have been appointed to hear this proceeding.

Because of the injunctive relief prayed for as well as the other matters pertaining to this litigation, we presume that this action will be given preference on the trial calendar. Accordingly, it is requested that this matter be placed on the trial calendar at an early date and that a pre-trial conference be scheduled by the presiding judge.

Yours very truly,

COX, BAGOT & HUPPENBAUER
By: /s/ E. E. HUPPENBAUER, JR.

EEH:mb
cc: Mr. Ted J. Borowski
Mr. Kenneth T. Watkins
Mr. Kenneth C. DeJean

[30] Minute Entry
February 16, 1968
Rubin, J.

CIVIL ACTION

No. 67-1853

SECTION "C"

JOSEPH Q. CIPRIANO

versus

CITY OF HOUMA,
G. LESLIE BROUSSARD, Mayor,
CHRISTIAN L. OLIVIER, CHARLES DAVIDSON,
PETER BOURGEOIS, JR., SAMUEL LUSCO and
WILBERT P. BONVILLAIN

A conference was held in this matter on Friday, February 16, 1968, at 10:00 A.M. to discuss the setting of this case for trial, and matters relating thereto.

Present:

Kenneth Watkins, Esq., representing the plaintiff.

Ted J. Borowski, Esq., Eugene Huppenbauer, Jr., Esq., and Philip J. McMahon, Esq., representing the defendants.

Counsel for both parties agreed that the case could be presented on a stipulation of fact and such a stipulation would be filed at least fourteen (14) days prior to the date of trial. Further, counsel agreed that the plaintiff's brief would be filed at least fourteen (14) days prior to the date fixed for trial, and the defendants' brief would

be filed at least seven (7) days prior to the date fixed for trial. Each party will have leave to file further reply memoranda up to the date of the actual trial.

Tenative trial dates were discussed, and it was agreed that counsel would be notified of the date fixed for trial as soon as all of the members of the three-judge Court could be consulted to determine their availability on the dates on which counsel will be available.

Kenneth Watkins, Esq.
Ted J. Borowski, Esq.
Eugene Huppenbauer, Esq.
Philip J. McMahon, Esq.

[31] Minute Entry
February 26, 1968
Rubin, J.

Feb 20 1968

[31] (TITLE OMITTED IN PRINTING)

The trial in this matter is assigned for Thursday, March 28, 1968, at 2:30 P.M. The trial will be held in the Court of Appeals courtroom, Room 416, 400 Royal Street, New Orleans, Louisiana.

Mar 1 1968

3/1/68 ---

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[32] * * * * * *

U. S. District Court
Eastern District of La.
Filed Mar 21 1968
A. Dallam O'Brien, Jr.
Clerk
B

[33] UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

CIVIL ACTION

No. 67-1853

SECTION "C"

JOSEPH Q. CIPRIANO

VERSUS

CITY OF HOUMA,
G. LESLIE BROUSSARD, Mayor,
CHRISTIAN L. OLIVIER, CHARLES DAVIDSON,
PETER BOURGEOIS, JR., SAMUEL LUSCO and
WILBERT P. BONVILLAIN

STIPULATION OF FACTS

Now comes Joseph Q. Cipriano, Plaintiff, and the City of Houma, G. Leslie Broussard, Mayor, Christian L. Olivier, Charles Davidson, Peter Bourgeois, Jr., Samuel Lusco and Wilbert P. Bonvillain, Defendants, through undersigned counsel, who stipulate and agree as follows:

1.

Joseph Q. Cipriano is a citizen of the United States, resides in the City of Houma, Parish of Terrebonne, State

of Louisiana, in which city he is a duly registered and qualified voter, and in which city he does not own real property or pay municipal ad valorem taxes on any such property.

2.

The City of Houma is a municipality organized under the laws of the State of Louisiana. G. Leslie Broussard, Christian L. Olivier, Charles Davidson, Peter Bourgeois, [34] Jr., Samuel Lusco and Wilbert P. Bonvillain are the Mayor and Board of Aldermen, respectively, of said City, are all residents of the City of Houma, Parish of Terrebonne, State of Louisiana, and constitute the governing authority of the City of Houma.

3.

On September 12, 1967, the Mayor and Board of Aldermen of the City of Houma adopted a resolution ordering and calling a special election to be held in the City of Houma, State of Louisiana, under the authority conferred by Part II, Chapter 4, Title 39 and Sub-Part C, Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950, and Article XIV, Section 14 (m) of the Louisiana Constitution for the year 1921, as amended, copies of which are annexed hereto and identified as Exhibit "A", "B" & "C", to authorize the issuance of revenue bonds by said City, a copy of which resolution is annexed hereto and made part hereof and identified as Exhibit "D".

4.

On October 24, 1967, an election was held in the City of Houma pursuant to the resolution adopted on September 12, 1967; that said election was held pursuant to the Louisiana constitutional and statutory authorities set forth in Paragraph 3 hereinabove; that on October 25, 1967, the

Mayor and Board of Aldermen of the City of Houma adopted appropriate proceedings convassing the returns and declaring the result of said special election, a copy of [35] which proceedings is annexed hereto and made part hereof and identified as Exhibit "E"; and that at said election, 1,828 voters representing an assessed valuation of $2,736,258.00 voted in favor of the proposition submitted and 896 voters representing an assessed valuation of $1,-108,268.00 voted against said proposition, and that said proposition was carried by a majority of 932 votes in number, representing an assessed valuation of $1,627,990.00.

5.

Plaintiff, Joseph Q. Cipriano, is a member of a class of 6,926 duly qualified and registered non-property taxpaying voters in the City of Houma, Louisiana, all of whom are similarly situated and entitled to bring a class action under Rule 23 of the Federal Rules of Civil Procedure.

6.

The bonds authorized at the election held in the City on October 24, 1967 are to be issued by the City of Houma in accordance with and subject to the provisions of Sub-Part C, Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950.

7.

During the years 1965, 1966 and 1967 the total ad valorem taxes levied by the City of Houma on immovable property located in said City was at the rate of 8.4 mills. The average tax rate (excluding municipal taxes) levied [36] against immovable property situated in the Parish of Terrebonne during the year 1967 was 60.8 mills. During the year 1966 the average tax rate (excluding municipal

taxes) in said Parish was 62.7 mills and during the year 1965 the average tax rate (excluding municipal taxes) was 64.8 mills.

8.

The total number of residents in the City of Houma in the year 1967 was approximately 35,000. The total number of registered voters in the City of Houma on October 24, 1967 was 11,606. The total number of property taxpaying voters in the City of Houma on October 24, 1967 was 4,680 and their total assessed value of property was $5,988,627.00. The total number of non-property taxpaying registered voters in the City of Houma on October 24, 1967 was 6,926. The City of Houma electric light and power plant system served approximately 6,773 customers in the City of Houma as of December 31, 1967.
March 20, 1968.

/s/ KENNETH WATKINS
KENNETH WATKINS
Attorney for Plaintiff
Joseph Q. Cipriano

/s/ TED J. BOROWSKI
TED J. BOROWSKI
City Attorney
City of Houma
Attorney for Defendants

/s/ E. E. HUPPENBAUER, JR.
E. E. HUPPENBAUER, JR.
Attorneys for Defendants

EXHIBIT "A"

PUBLIC FINANCE

BONDED INDEBTEDNESS

Chapter 4

PART II. ELECTIONS

[37]

§ 501. Elections

Except as otherwise provided in special cases, no subdivision may incur any debt, issue any bonds, levy any special tax, or assume any indebtedness unless it has been authorized by vote of a majority in number and amount of the property taxpayers qualified to vote under the constitution and laws of this state who vote at an election hereunder. The governing authority of any subdivision may call a special election for any of these purposes at any time; and it shall call an election for any of these purposes when requested so to do by the petition in writing of one-fourth of the property taxpayers eligible to vote at the election.

[38] * * * * *

§ 502. Resolution calling election.

The election shall be ordered by resolution which shall state the purpose for which it is called.

If the proposition is to incur debt and issue negotiable bonds under Part III of this Chapter,[1] the purpose for which the debt is to be incurred, the amount of the debt, the number of years for which the bonds are to run, and the maximum rate of interest to be paid shall be stated.

If the proposition is to levy a special tax under Part

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[1] R.S. 39:551-39:670.

IV of this Chapter,[2] the rate, object, and purpose for which the tax is to be levied, and the number of years it is to run must be stated.

[39] * * * * *

§ 503. Notice of election

Notice of the election shall be given embracing substantially all matters required to be set forth in the resolution ordering the election, and shall set forth further that the authorities ordering the election will, in open session, at an hour and place named, proceed to open the ballot boxes, canvass the returns and declare the result. The notice shall be published for thirty days in a newspaper published in the subdivision; or if there is no newspaper published therein, in a newspaper published in the parish; or if there is no newspaper published in the parish, in a newspaper published in an adjoining parish, and by posting in three public places in the subdivision ordering the election. Four publications in a newspaper once a week, shall constitute a publication for thirty days; provided thirty days intervene between the date of the first publication and the date of the election.

[40] * * * * *

§ 504. Polling places; ballots

The governing authority ordering the election, shall designate the polling places; provide the ballot boxes; ballots; valuations of property and compiled statement of the voters in number and amount, and fix the compensation of the election officers. It shall appoint for each polling place, three commissioners and one clerk of election, all of whom shall be registered voters.

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[2] R.S. 39:701-39:706.

[41] * * * * * *

§ 505. Election officers; substitutes

If any commissioner or clerk of election is unable, or if he fails or neglects to attend or serve at the polling place designated, at the hour fixed for opening, or within one hour thereafter, the commissioners present shall appoint, or in the absence of all commissioners the voters present shall elect the necessary number of commissioners and clerks, who shall have the same powers, compensation and duties, as other commissioners and clerks and shall serve in the place and stead of the absentee or delinquent appointees.

* * * * *

§ 506. Election officers; oaths

Commissioners and clerks of elections, before opening the polls, shall be sworn to perform all the duties incumbent on them as such, the oath to be taken before any officer authorized to administer oaths, or by the clerk, and each commissioner before any other commissioner. The commis-
[42] sioners of election may administer any oath and receive any affidavit provided for in this Chapter.

* * * * *

§ 507. Penalty for violations

The commissioners and clerks of elections held under the provisions of this Chapter shall have the same powers and duties in conducting the elections and in preserving order at the polls as are conferred and imposed upon similar officers under the general election laws of this state.

[43] Whatever is declared in the general election laws to be a felony, other crime or misdemeanor, shall be the same for any election held under the provisions of this Chapter and shall be punished in the same manner.

Any wilful failure or neglect to comply with the requirements of this Chapter or any wilful violation by any officer, agent or employee of any subdivision, availing itself of the provisions of this Chapter, shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars or by imprisonment not exceeding one year, with or without hard labor, or by both fine and imprisonment.

* * * * *

§ 508. Qualifications of voters

Only property taxpayers qualified as electors under the constitution and laws of this state are entitled to vote in any election held under the provisions of this Part. The qualifications of taxpayers as voters are those of age, residence, and registration as voters, without regard to sex. There shall be no voting by proxy.

With reference to Part IV of this Chapter[1] if the limits and boundaries of any municipal corporation has been extended and the assessment roll that is to include the property in the extended limits has not already been made for the municipal corporation, those who have become property taxpayers by the extension of the limits and who are otherwise qualified to vote shall be permitted to vote in the election and the assessed valuation of their property shall be ascertained by reference to the last assessment roll of the parish.

[44] * * * * *

§ 509. Use of tax receipts

A. In all elections held under the provisions of this Part and in all other elections whatsoever held under any other laws of this state where the only question submitted

[1] 39:701-39:706.

is the incurring of debt and issuing of bonds or other evidences of debt and/or the question of levying special taxes, the voter shall use his tax receipt as obtained from the tax collector's office in determining the amount of assessment that shall be voted.

B. The registrar of voters shall furnish to the election commissioners appointed to hold such election the precinct binders showing those eligible to vote in said election. A taxpayer entitled to vote in said election shall present to the commissioners of election his tax receipt with the valuation of such taxpayer's property as shown by the assessment roll last made and filed prior to such election: provided, however, that when it is impossible for any taxpayer to present his tax receipt to show the valuation of his property, he shall be permitted to vote by the use of the copy of the tax receipt, which the commissioners shall find in the precinct binders. In case of loss of the original tax receipt and copy thereof, the commissioners of election may receive affidavits of such taxpayer's right to vote and of the proper assessed valuation of his property, which affidavits shall be attached to such taxpayer's ballot.

C. The tax collector in each of the sixty-four parishes shall make tax receipts for each taxpayer at the time the taxes are paid. Such tax receipts shall be made in a minimum of an original and three copies. The original shall go to the taxpayer and one copy to the registrar of voters, which shall be placed in the proper precinct binder and forwarded to the polls on election day. The additional copies shall be for the use of the tax collector.

D. Notwithstanding any provision of any law to the contrary, the provisions of this Section, with regard to the use of tax receipts shall be applicable at each election in this state in which there is submitted to the qualified prop-

erty taxpayer of any area of the state the question of incurring debt and issuing bonds or other evidences of debt therefor or the question of levying any tax. As amended Acts 1964, No. 399, § 2; Acts 1966, No. 500, §§ 2, 3.

[45] * * * * *

§ 510. Challenging votes

If the vote of any taxpayer is challenged, the commissioners of election shall permit him to vote and shall receive in writing the grounds of challenge signed by the challenger, together with the challenged taxpayer's statement of his asserted right to vote and the challenge and statement shall be attached to the ballot.

[46] * * * * *

§ 511. Form of ballot

(Signature of Voter)

If more than one proposition is submitted at the same special election, each proposition shall be so submitted as to enable the voter to vote thereon separately. The ballots to be used at special elections shall be in substantially the following form:

A. FOR THE INCURRING OF BONDED INDEBTEDNESS

Shall .....

(Name of Subdivision)

incur debt and issue bonds to the amount of.....

.....YES

Dollars,

to run .....years,

from date thereof, with interest, at the maximum rate

of ..... per cent per annum for the purpose of.....

..... NO

Taxable valuation $.....

.....

(Signature of Voter)

Notice to Voters: To vote in favor of the proposition submitted on this ballot, place a cross (X) mark in the square after the word "YES"; to vote against it, place a similar mark after the word "NO".

B. FOR THE LEVYING OF A TAX

Proposition to levy a.....
(Rate)

mill
tax on all the property subject to State taxation

in.....YES
(Subdivision)

for the period of.....
(Term)

for the purpose of.....

..... NO
(Here state the purpose of the tax)

Taxable valuation $.....

.....
(Signature of Voter)

Notice to Voters: To vote in favor of the proposition submitted upon this ballot place a cross (X) mark in the square after the word "Yes"; to vote against it place a similar mark after the word "No".

[47] * * * * *

§ 512. Voting

Each voter's name shall be written on his ballot. The commissioners of election shall receive the ballot of each voter, check his name on the list of voters furnished by the registrar, enter and number his name on the list of taxpayers voting, and immediately deposit his ballot in the ballot box, reserving to each voter the right to so fold his ballot that it shall not be known at the time of voting whether he voted for or against the proposition or propositions submitted. If the election is being held in a parish where the permanent registration laws are in force, the procedure in connection with the precinct registers shall be the same as that provided for in Part X of Chapter 1 of Title 18 of the Louisiana Revised Statutes of 1950.[1] As amended Acts 1964, No. 399, § 2.

* * * * *

§ 513. Opening and closing polls

1. In general

R.S. 18:1181, requiring polls to be open between 6:00 a.m. and 9:00 p.m. does not apply to special elections such as one called to approve a municipal bond issue. Jones v. City of Lake Charles, 1955, 227 La. 794, 80 So.2d 411.

The opening of polls earlier, and closing later than fixed in this section would not vitiate special tax election, unless voters were deprived of votes sufficient in number

[1] R.S. 18:231 et seq.

and amount to change the result of the election; however, strict interpretation suggests that in tax elections the polls close not later than 6:00 P.M. Op.Atty.Gen. 1960-62, p. 128.

2. Contest

Petition, which alleged existence of omissions and errors in list of voters furnished by registrar of voters to commissioners of election, failure of commissioners to be sworn, failure to close polls at hour fixed for closing, abscence of voting booths, and preparation and signing of ballots for voters by persons other than such voters, was not sufficient to show that the irregularites complained of were so gross as to have caused an injustice which would warrant declaration by the Supreme Court that the election was void. Duncan v. Vernon Parish School Bd., 1955, 226 La. 379, 76 So.2d 403.

§ 514. Counting ballots; precinct registers

A. Immediately after the closing of the polls, the commissioner shall, in the presence of the bystanders, open the ballot boxes; count the ballots found there; check the same with the list of voters; proceed to count the votes in number and amount; keep tally sheets in duplicate showing the votes in favor of and against the proposition or propositions submitted, and showing the valuation of property in favor of and against same; and make compiled statements in duplicate of the vote in number and amount, both in favor of and against each proposition or propositions.

B. After swearing to the correctness of the numbered list of voters, the duplicate tally sheets and duplicate compiled statements, the commissioner shall deposit the ballots, the registrar's list of voters, the numbered list of taxpayers voting, one duplicate tally sheet, and one duplicate compiled statement, in the ballot box immediately seal the

[48] ballot box and, within forty-eight hours after the closing of the polls, deliver the sealed ballot box with its contents to the authorities ordering the election. Within the same period they shall deliver the duplicate tally sheet and the duplicate compiled statement to the clerk of the district court of the parish in which the election was held who shall file them in his office. If the election is being held in a parish where the permanent registration laws are in force, the procedure in connection with the precinct registers shall be the same as that provided for in Part X of Chapter 1 of Title 18 of the Louisiana Revised Statutes of 1950.[1]

C. If the election commissioners on counting the ballots find that they do not correspond with the list of voters, they shall, before examining and counting the ballots, examine them for the purpose of finding the discrepancy and if it should be found that any ballots have been duplicated they shall be destroyed or, if it be found that the name of a voter has been omitted from the list of persons voting, it shall be added to the list. As amended Acts 1964, No. 399, § 2.

[49] * * * * *

§ 515. Canvass of returns

On the day and at the hour and place named in the notice of election, the authorities ordering the election shall in public session open the ballot boxes, examine and count the ballots in number and amount, examine and canvass the returns, and declare the result of the election. The re-
[50] sult shall be promulgated by publication in one issue of a newspaper published in the subdivision, or if there is none, in a newspaper published in the parish, or if there is none published in the parish, in the newspaper published in an adjoining parish.

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[1] R.S. 18:231 et seq.

[51] * * * * *

§ 516. Proces verbal

The authority ordering the elections shall keep a proces verbal of the canvass and shall forward a copy to the Secretary of State, who shall record it; another copy to the clerk of the district court, who shall record it in the mortgage records; and the remaining copy shall be retained in the archives of the office of the authority ordering the election.

[52] * * * * *

§ 517. Preservation of ballots

The custodian of the archives or records of the authority ordering the election shall preserve for a term of three months from the date of the promulgation of the election, the ballots and other returns.

* * * * *

§ 518. Contests

For a period of sixty days from the date of promulgation of the result of any election held under the provisions of this Part, any person in interest may contest the legality of the bond issue provided for, the tax authorized or the assumption of debt provided for any cause, after which time, no one may contest the legality, formality or regularity of the election or debt assumption for any cause whatsoever. If the validity of any election is not raised within the sixty days herein prescribed, the authority to issue the bonds, and to levy the tax, or assume the debt and the regularity thereof, shall be conclusively presumed, and no court shall have authority to inquire into such matters.

With reference to Part III (A)[1] of this Chapter, if any

[1] R.S. 39-551-39:578.

resolution adopted or proceeding had more than thirty days after the promulgation of the result of the election, no contest, action or proceeding to question the validity or legality of the resolution or proceeding so adopted shall be be-
[53] gun in any court by any person for any cause whatsoever, after the expiration of thirty days from the date when the resolution was adopted or proceeding had.

* * * * *

EXHIBIT "B"

[54]

PUBLIC UTILITIES
OWNERSHIP, OPERATION, ETC.

Chapter 10

SUB-PART C. PLEDGE OF REVENUES OF UTILITY

§ 4251. Bond issue

Any municipal corporation or any parish or any other political subdivision or taxing district authorized to issue bonds under Section 14, Article 14, of the Constitution of Louisiana, all of which are hereinafter in this Sub-part referred to as "municipal corporation" or "municipality" may, in order to construct, acquire, or improve a revenue producing public utility, either within or without its boundaries, obtain funds for the purpose by issuing revenue bonds. For the purposes of this Sub-part, the governing body of the municipal corporation shall be the body empowered to authorize and issue other bonds of the municipal corporation under the provisions of Section 14, Article 14, of the Constitution of Louisiana and Title 39, Sub-title 2, Chapter 4.

[55] * * * * *

§ 4252. Requisites of bonds

Bonds issued under this Sub-part shall be authorized by resolution of the governing body and shall be payable solely from the income and revenues to be derived from the operation of the utility. The bonds shall not constitute an indebtedness or pledge of the general credit of the municipal corporation within the meaning of any constitutional or statutory limitation of indebtedness and shall contain a recital to that effect. They shall be in coupon form but

may be made registerable as to principal if so provided in the resolution authorizing the issuance. The bonds shall be in the denomination of one hundred dollars or a multiple thereof, shall bear interest at a coupon rate not exceeding six per cent per annum, shall mature serially or otherwise in the manner provided by the governing body, but not later than forty years from their date, and shall be made payable at the place provided by the governing body. They may be made redeemable at the option of the issuing municipality prior to maturity at the premium (not greater than ten per cent of the principal amount thereof) which the governing body determines. The bonds shall be signed by the presiding officer and attested by the secretary or clerk of the municipality under the official seal of the municipality, in the manner provided in the resolution authorizing their issuance. Interest coupons to be attached thereto may be executed with the facsimile signature of the officers, and in the event that any officer whose signature appears on the bonds or coupons ceases to hold office before the delivery of the bonds to the purchaser, his signature shall nevertheless be valid and sufficient for all purposes. The bonds shall be sold in the manner and at the times which the governing body determines, except that in no event shall the bonds be sold at a price of less than par or bear an interest rate of greater than six per centum per annum.

[56] * * * * *

§ 4253. Pledge of revenues of utility; receivership

Any bonds issued under this Sub-part shall be payable from and secured by the pledge of the revenues derived from the operation of the utility constructed, acquired, extended or improved with the proceeds thereof, subject only to the prior payment of the reasonable and necessary expenses of operating and maintaining the utility. Any holder

of the bonds or of any of the coupons thereto attached may be appropriate legal action compel performance of all duties required of the governing body and officials of the municipal corporation by the provisions of this Sub-part. If any bond issued hereunder is permitted to go into default as to principal or interest, any court of competent jurisdiction may pursuant to the application of the holder of the bond, appoint a receiver for the utility, which receiver shall be under the duty of operating the utility and collecting and distributing the revenues thereof pursuant to the provisions and requirements of the resolution authorizing the bonds.

If more than one series of bonds is issued hereunder payable from the revenues of any utility, priority of lien on such revenues shall depend on the time of the delivery of the bonds, each series enjoying a lien prior and superior to that enjoyed by any series of bonds subsequently delivered, except that where provision is made in the proceedings authorizing any issue or series of bonds for the issuance of additional bonds in the future on a parity therewith pursuant to procedure or restrictions provided in such proceedings, additional bonds may be issued in the future on a parity with such issue or series in the manner so provided in such proceedings. As amended Acts 1955, No. 72, § 1; Acts 1956, No. 17, § 1.

[57] * * * * * *

§ 4254. Bonds to constitute negotiable instruments

All bonds issued under the provisions of this Sub-part shall constitute negotiable instruments within the meaning of the negotiable instruments laws.

* * * * * *

§ 4255. Sinking fund

Any resolution authorizing the issuance of bonds here-

under shall provide for the creation of a sinking fund into which shall be paid from the revenues of the utility, subject only to prior payment of the reasonable and necessary expenses of operating and maintaining the utility, sums fully sufficient to pay the principal and interest of the bonds, and to create such reserve for contingencies as may be required by the resolution. The moneys in the sinking fund shall be applied to the payment of interest on and principal of the bonds or to the purchase or retirement of the bonds prior to maturity in the manner provided in the resolution.

The resolution authorizing their issuance may contain such covenants with the future holder of the bonds as to

(1) the management and operation of the utility,

(2) the imposition and collection of fees and charges for the products, commodities or services furnished thereby,

(3) the disposition of such fees and revenues,

(4) the issuance of future bonds and the creation of future liens and encumbrances against the utility and the revenues thereof,

* * * * *

[58] (5) the carrying of insurance on the properties constituting the utility.

(6) the disposition of the proceeds of any such insurance, and

(7) other pertinent matters, deemed necessary by the governing body to assure the marketability of the bonds, provided such covenants are not inconsistent with the provisions of this Sub-part.

* * * * *

§ 4256. Charges for commodities or services provided by utility

When any municipality has issued bonds and has pledged the revenues of any utility for the payment thereof as herein provided, the municipality shall impose and collect fees and charges for the products, commodities and services furnished by the utility, including those furnished to the municipality itself and its various agencies and departments, in such amounts and at such rates as shall be fully sufficient at all times to (1) pay the expenses of operating and maintaining the utility, (2) provide a sinking fund sufficient to assure the prompt payment of principal of and interest on the bonds as each falls due, (3) provide such reasonable fund for contingencies as may be required by the resolution authorizing the bonds, and (4) provide an adequate depreciation fund for repairs, extensions and improvements to the utility necessary to assure adequate and efficient service to the public. No board or commission other than the governing body of the municipality shall have authority to fix or supervise the making of these fees and charges.

[59] * * * * *

§ 4257. Property of two or more utilities may be pledged

The governing body of the municipality may authorize bonds under this Sub-part payable from the revenues to be derived from two or more utilities owned and operated by the municipal corporation (whether or not such utilities are related or used in conjunction) for the purpose of constructing, acquiring, extending or improving any one or more of the utilities.

* * * * *

§ 4258. Election to authorize issuance of bonds

Before the resolution authorizing the issuance of bonds

under this Sub-part is adopted by the governing body, the question of the issuance of the bonds shall be submitted to and approved by votes of a majority in number and amount of the property taxpayers who vote at an election held hereunder. The proposition may be submitted at either a special or general election and all matters pertaining thereto, including the qualifications of voters and the manner of calling and conducting the election and canvassing and promulgating the results thereof, shall be governed by the provisions of Chapter 4, Sub-title 2, Title 39.

* * * * *

§ 4259. Refunding bonds

The governing body of any municipality which has heretofore issued or hereafter issue bonds payable from utility revenues under the provisions of this Sub-part or any other law may authorize the issuance of bonds for the purpose of refunding, extending and unifying the whole or any part of the principal, interest and redemption premiums on the outstanding bonds. The refunding bonds may either be sold and the proceeds applied to or deposited in escrow for the retirement of the outstanding bonds, or may be delivered in exchange for the outstanding bonds. The refunding bonds shall be authorized in all respects as original bonds are herein required to be authorized, except [60] that no election shall be necessary in the event the refunding bonds are sold at public sale after advertisement in the manner provided by R.S. 39:570 and the annual principal and interest on the refunding bonds is less than the combined annual principal and interest on the bond issue or issues being so refunded, extended and unified. The governing body, in authorizing the refunding bonds, shall provide for the security of the bonds, the sources from which the bonds are to be paid and for the rights of the holders thereof in all respects as herein pro-

vided for other bonds issued under the authority of this Sub-part. The governing body may also provide that the refunding bonds shall have the same priority of lien on the revenues pledged for their payment as was enjoyed by the bonds refunded. As amended Acts 1962, No. 224, § 1.

* * * * *

§ 4260. Contesting election and bonds; prescription

For a period of sixty days from the date of the promulgation of the result of any election held hereunder, any person in interest may contest the legality of the election, after which time no one shall have any cause of action to contest the regularity, formality or legality of the election for any cause whatever, it shall be conclusively presumed that every legal requirement has been complied with, and no court shall have authority to inquire into such matters after the lapse of sixty days. The resolution authorizing the issuance of bonds shall be published once in a newspaper published in the municipality, or if no newspaper is published therein, then in a newspaper published in the parish in which the municipality is located, or if no newspaper is published in the parish then in a newspaper published in an adjoining parish. For a period of thirty days from the date of the publication any person in interest may contest the legality of the resolution and of the bonds to be issued pursuant thereto and the provisions securing the bonds. After the expiration of thirty days no one shall have any right of action to contest the validity of the bonds or the provisions of the resolution pursuant to which the bonds were issued, and all the bonds shall be conclusively presumed to be legal, and no court shall thereafter have authority to inquire into such matters.

[61] * * * * *

§ 4261. Service charge for sewerage and garbage facilities

Where the revenues pledged to the payment of bonds under this Sub-part are revenues of a utility comprised of sewerage facilities, or garbage facilities, the governing authority of the municipality may each year impose against the owners of all real property in the municipality a service charge for the facilities afforded by the utility, which charge shall not be a lien upon the property. The charges shall be sufficient to provide for the cost of operating and maintaining the utility and paying the interest and principal of the bonds secured by the revenues of the utility. No charge shall be made against the owner of any property which is not benefited by the utility. A list of the names of all owners against whom charges are so made and the amounts of the charge made against each owner shall be certified by the governing authority to the official charged with the assessment of taxes against the property at such time and in such manner in each year as to permit the amount of the charge to be carried upon the assessment roll of the real property in the municipality. Each charge shall be carried on the roll as a special item due by the owner of the property individually and shall be identified on the roll as "Special Sewerage or Garbage Charge of ..... (inserting the name of the municipal corporation)". The charges shall be paid to the official who collects the general taxes assessed against the real property located in the municipality, and shall be paid at the same time and in the same manner as the general taxes are paid. Where the ownership of any real property changes, the municipality may require any subsequent owner seeking sewerage or garbage service to apply therefor, whereupon the charges imposed against the owner shall be assessed and collected in the manner hereinabove provided. The municipality may pay the tax collecting official the

same commission on the amounts collected by him as he receives for the collection of ad valorem taxes, and may [62] pay the assessing official a sum sufficient to reimburse him for the additional expenses occasioned by reason of listing the charges on the assessment roll. The amounts to be paid to the assessor and collector shall be considered one of the costs of operating and maintaining the utility.

* * * * *

§ 4262. No restriction of acts authorized

This Sub-part shall constitute full authority for the accomplishment of all acts herein authorized to be done. No other law restricting the carrying out of the acts authorized to be done shall be construed as applying to any proceedings had or acts done pursuant to this Sub-part.

* * * * *

SUB-PART D. CITIES OF 25,000 TO 250,000

§ 4281. Extension or improvement of municipally owned utility by city of 25,000 to 250,000

Any municipality having a population in excess of twenty-five thousand and less than two hundred fifty thousand owning and operating its electric power plant, waterworks, motor coach transportation, and sewerage system, may construct, maintain, extend, rehabilitate, enlarge or improve any municipality owned public utility either within or without its boundaries. In addition the municipality may consolidate and unite any non-revenue bearing utility with one or more revenue bearing public utilities, which when so united and consolidated, shall be one unit and shall be considered and treated as a single revenue bearing utility.

EXHIBIT "C"

[63]

PAROCHIAL—MUNICIPAL AFFAIRS

Art. 14 § 14

* * * * *

(m). Revenue bonds; acquisition, etc., of utilities.

For the purpose of constructing, acquiring, extending or improving any revenue-producing public utility, the Legislature may authorize municipal corporations to issue bonds secured exclusively, principal and interest, by mortgage on the lands, building, machinery and equipment and by pledge of the income and revenues of such public utility. Such bonds shall not be a charge upon the other income and revenues of the municipality and shall not be included in computing the indebtedness of the municipality for the purpose of any limitation herein.

For the purpose of constructing, acquiring, extending or improving any revenue producing public utility, as defined by the Legislature, the Legislature may authorize any political subdivision or taxing district authorized to issue bonds under authority of this Section 14, excluding municipal corporations, to issue its revenue bonds; which bonds shall be fully negotiable, shall bear interest at a coupon rate not exceeding six per cent per annum, shall [64] mature serially or otherwise not later than forty years from their date, shall not be a charge upon any income or revenue of the district or municipality not derived from the utility, and shall not be included in computing the indebtedness of the subdivision or district, for the purpose of any limitation contained in the Constitution. The Legislature shall provide that any bonds issued hereunder shall be secured by a conventional mortgage on the entire utility so construed, acquired, extended or improved,

and by pledge of the income and revenues thereof, sufficient in amount to pay principal of and interest on said bonds as they severally mature; which security may be foreclosed by seizure and sale of the encumbered property in the manner provided by law for the foreclosure of conventional mortgages, including the right to executory process, and the Legislature shall provide for the granting of a franchise to the purchaser at foreclosure sale, if any, which franchise shall run for a period not exceeding forty years from the date of such sale and shall be subject to any other constitutional or statutory limitations pertaining to the granting of municipal franchises. The Legislature shall also provide that when bonds are issued hereunder, the issuing subdivision or district must impose rates for the services rendered by the utility fully sufficient to operate and maintain the utility, to pay principal of and interest on the bonds, and to provide an adequate fund for depreciation, improvements and extensions, and provisions may be made for encumbering two or more utilities for the construction, acquisition, extension or improvement of any one or more of the utilities encumbered. The Legislature may, in its discretion, require an election by the tax-paying voters of the subdivision or district as a condition precedent to the issuance of such bonds, in which case the voters' qualifications shall be governed by the provisions of this Section XIV pertaining to other bond elections. If the validity of any bonds issued hereunder be not questioned in litigation commenced within thirty days from the date of publication of the ordinance or resolution authorizing the issuance of such bonds, the authority to issue the bonds, the legality thereof, and the security therefor, shall be conclusively presumed and no court shall thereafter have authority to inquire into such matters. Any law or laws enacted by the Legislature for the purpose of putting this added paragraph to Subsection

(m) into effect and which may have been finally passed by the Legislature after the passage of the joint resolution proposing this amendment and prior to the adoption of said amendment by the electors of Louisiana, shall be valid and fully effective if and when said proposed amendment be adopted.

* * * * *

EXHIBIT "D"

[65]

PROCEEDINGS OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF HOUMA, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD ON TUESDAY, SEPTEMBER 12, 1967.

The Mayor and Board of Aldermen of the City of Houma, State of Louisiana, met in regular session at their regular meeting place, the City Hall, Houma, Louisiana, on Tuesday, September 12, 1967, at seven-thirty (7:30) o'clock p.m.

There were present: Hon. G. Leslie Broussard, Mayor, and Aldermen Wilbert A. Bonvillain, Peter G. Bourgeois, Jr., Charles H. Davidson, Sam Lusco and Christian L. Olivier, Jr.

There was absent: None.

The Mayor and Board of Aldermen of the City of Houma, State of Louisiana, were duly convened as the governing authority of said City by Hon. G. Leslie Broussard, Mayor, who stated that the Board was ready for the transaction of business.

[66] The following resolution was offered by Messrs. Bonvillain, Bourgeois, Davidson, Lusco and Olivier and seconded by Messrs. Bonvillain, Bourgeois, Davidson, Lusco and Olivier.

RESOLUTION

A resolution ordering and calling a special election to be held in the City of Houma, State of Louisiana, to authorize the issuance of revenue bonds of said

City, and making application to the State Bond and Tax Board in connection therewith.

BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Houma, State of Louisiana, acting as the governing authority of said City:

SECTION 1. That subject to the approval of the State Bond and Tax Board and under the authority conferred by Part II, Chapter 4, Title 39 and Sub-Part C, Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950, and other constitutional and statutory authority supplemental thereto, a special election be and the same is hereby called and ordered to be held in the City of Houma, State of Louisiana, on Tuesday, October 24, 1967, between the hours of six (6:00) o'clock a.m. and eight (8:00) o'clock p.m., in compliance with the provisions of Section 1181 of Title 18 of the Louisiana Revised Statutes of 1950 (R.S. 18:1181), and that at the said election there shall be submitted to the resident property taxpayers of said City qualified and entitled to vote at said election under the Constitution and Laws of this State, the following proposition, to-wit:

PROPOSITION

Shall the City of Houma, State of Louisiana, issue its revenue bonds to the amount of Ten Million Dollars ($10,000,000.00), to run twenty-five (25) years from date thereof, with interest at a rate not exceeding six per centum (6%) per annum, for the purpose of constructing and acquiring extensions and improvements to the combined electric light and power plant system, water supply purification and distribution plant system and natural gas system of said City, said bonds to be payable as to principal and interest solely from the income and revenues to be derived from the operation of said combined utility, pursuant to the provisions of Sub-Part C, Part

I, Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950?

SECTION 2. That there shall be published in "The Terrebonne Press", a weekly newspaper published in the City of Houma, Louisiana, and being the official journal of the Mayor and Board of Aldermen of the City of Houma, for thirty (30) clear days in accordance with law, notice of said election, which notice shall be substantially as follows:

[67] NOTICE OF SPECIAL ELECTION

Pursuant to the provisions of a resolution adopted by the Mayor and Board of Aldermen of the City of Houma, State of Louisiana, on September 12, 1967, NOTICE IS HEREBY GIVEN that a special election will be held in said City on Tuesday, October 24, 1967, and that at said election there will be submitted to the resident property taxpayers of said City, qualified and entitled to vote at said election under the Constitution and Laws of this State, the following proposition, to-wit:

PROPOSITION

Shall the City of Houma, State of Louisiana, issue its revenue bonds to the amount of Ten Million Dollars ($10,000,000.00), to run twenty-five (25) years from date thereof, with interest at a rate not exceeding six per centum (6%) per annum, for the purpose of constructing and acquiring extensions and improvements to the combined electric light and power plant system, water supply purification and distribution plant system and natural gas system of said City, said bonds to be payable as to principal and interest solely from the income and revenues to be derived from the operation of said combined utility, pursuant to the provisions of Sub-Part C, Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950?

The said election will be held at the following polling places situated within the corporate limits of the City of Houma, Louisiana, which polls will open at six (6:00) o'clock a.m. and close at eight (8:00) o'clock p.m., in compliance with the prpvisions of Section 1181 of Title 18 of the Louisiana Revised Statutes of 1950 (R.S. 18:1181), and the following named persons all of whom are registered voters, have been designated as Commissioners and Clerks of Elections, respectively, at the said polling places, to-wit:

POLLING PLACE: Parish Ward 3, Precinct 1 (City Ward 2, Precinct 2) Charles D. Chauvin Building, 100 Verret St., Houma, Louisiana
Mrs. Leola C. Martin, Commissioner;
Mrs. Johnny Crispino, Commissioner;
Mrs. Estelle Chauvin, Commissioner;
Mrs. Barbara P. Johnson, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 2 (City Ward 2, Precinct 3) Court House Building, Main Street, Houma, Louisiana
S. E. Bergeron, Jr., Commissioner;
Edith L. Adoue, Commissioner;
Mrs. N. J. Bonvillain, Commissioner;
Joseph Serpas, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 3 (City Ward 3, Precinct 1) Municipal Auditorium, 880 Verret Street, Houma, Louisiana
Ben J. Boudreaux, Jr., Commissioner;
Judy Smart, Commissioner;
Mrs. Jules Daigle, Commissioner;
Mrs. Bessie Waguespack, Clerk.

[68] POLLING PLACE: Parish Ward 3, Precinct 4 (City Ward 3, Precinct 2) Greater Houma Fire Station, Engeron Street, Houma, Louisiana
Mrs. Royal Richoux, Commissioner;
Louis Gueniot, Commissioner;
Levis Pellegrin, Commissioner;
Mrs. Vincent Lopresto, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 5 (City Ward 4, Precinct 1) V.F.W. Hall, 1613 Barrow Street, Houma, Louisiana

Edward LeBlanc, Commissioner;
Rita Fesi, Commissioner;
Ollie J. Vice, Commissioner;
Emile A. Daigle, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 6 (City Ward 4, Precinct 2) Pellegrin Sales Company, 1005 Dunn Street, Houma, Louisiana
Mrs. Leo Babin, Commissioner;
Mrs. George Larke, Commissioner;
Maurice Dugas, Commissioner;
Archie Bridges, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 7 (City Ward 1, Precinct 1) Bourg Bros. Moving and Storage Co., 602 West Park Avenue, Houma, Louisiana
Mrs. Curll Crochet, Commissioner;
Mrs. Albert Davis, Sr., Commissioner;
Mrs. Wilbert Pontiff, Commissioner;
Mrs. Paul Pontiff, Jr., Clerk.

POLLING PLACE: Parish Ward 3, Precinct 8 (City Ward 1, Precinct 2) West Park School, West Park Avenue, Houma, Louisiana
Mrs. Andrew M. Glynn, Commissioner;
Mrs. Stanley Bergeron, Commissioner;
Mrs. Lura D. Malbrough, Commissioner;
J. M. Jaccuzzo, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 9 (City Ward 1, Precinct 3) Dixieland Hobby Shop, 109 Suthon Avenue, Houma, Louisiana
Mrs. Walter Walker, Commissioner;
Frank King, Commissioner;
Mrs. Albert Rogers, Commissioner;
Steve Fanguy, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 10 (City Ward 1, Precinct 4) American Legion Home, Legion Avenue, Houma, Louisiana
Mrs. Stella B. Boyne, Commissioner;
Mrs. John R. Lyle, Commissioner;
Mrs. Norma C. Millet, Commissioner;
Mrs. Gertrude B. Cenac, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 11 (City Ward 1, Precinct 5) East Park School, East Park Avenue, Houma, Louisiana
Mrs. Sadie S. Eschete, Commissioner;
Mrs. May M. Duplantis, Commissioner;
Mrs. Marjorie L. Labit, Commissioner;
Marie R. LeBouef, Clerk.

[69] POLLING PLACE: Parish Ward 3, Precinct 12 (City Ward 1, Precinct 6) East Park Recreational Center, Robert Street, Houma, Louisiana

Mrs. Wilbert Bergeron, Commissioner;
Mrs. Donald Bonvillain, Commissioner;
Mrs. Joseph Babin, Commissioner;
Ruth M. Boudreaux, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 13 (City Ward 3, Precinct 3) Terrebonne Parish Public Library, East Houma Branch, 1609 East Main Street, Houma, Louisiana

Mae L. Lirette, Commissioner;
Mrs. Betty Desselle, Commissioner;
Mrs. Nolan Roddy, Jr., Commissioner;
Mrs. Lynn Chauvin, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 14 (City Ward 3, Precinct 4) Waterworks District No. 1 Office, 2300 East Main St., Houma, Louisiana

Mrs. I. J. Rhodes, Commissioner;
Mrs. Stanley B. Whitney, Commissioner;
Mrs. Ezelle Kinnard, Commissioner;
Mrs. Joyce B. Dufilho, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 15 (City Ward 3, Precinct 5) Quality Furniture Store, 1910 Tunnel Blvd., Houma, Louisiana

Mrs. Tom Sledge, Commissioner;
Mrs. Stephen Haddad, Commissioner;
Mrs. Jimmie Whitney, Commissioner;
Maurice G. Rome, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 16 (City Ward 3, Precinct 6) Hudman's Texaco Service Station, Grand Caillou Rt., Houma, Louisiana

Mrs. Arnold Autin, Commissioner;
Joe Larussa, Commissioner;
Mrs. Randolph Moore, Commissioner;
Mrs. Vernon Hudman, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 17 (City Ward 3, Precinct 7) Oaklawn School, Grand Caillou Rt., Houma, Louisiana

Juanita B. Schouest, Commissioner;
Georgia M. Sullivan, Commissioner;
Duffy Guidroz, Commissioner;
M. A. Hebert, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 18 and Parish Ward 9, Precinct 2C (City Ward 4, Precinct 3) South Houma Fire Station, Highway 90 West, Houma, Louisiana

Mrs. Marian Patterson, Commissioner;
Mrs. Archie R. Bridges, Commissioner;
Mrs. Joe Teuton, Sr., Commissioner;
Mrs. Edith Talbot Denson, Clerk.

POLLING PLACE: Parish Ward 3, Precinct 22 (City Ward 2, Precinct 1) Terrebonne High School, West Main Street, Houma, Louisiana
Mrs. Roy Breerwood, Commissioner;
Mrs. Yvonne D. Faucheaux, Commissioner;
Mrs. Isabelle T. Vaquelin, Commissioner;
Mrs. George B. Taylor, Clerk.

[70] That the said election will be held in accordance with the provisions of Part II, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, and other constitutional and statutory authority supplemental thereto, and the officers appointed to hold the said election, or such substitutes therefor as may be selected and designated in compliance with Section 505 of Title 39 of the Louisiana Revised Statutes of 1950 (R.S. 39:505), will make due returns thereof to the Mayor and Board of Aldermen of the City of Houma, State of Louisiana, the governing authority of said City. Ballot boxes will be used in holding this election.

NOTICE IS HEREBY FURTHER GIVEN that said Mayor and Board of Aldermen will meet at its regular meeting place, the City Hall, Houma, Louisiana, on Wednesday, October 25, 1967, at seven-thirty (7:30 o'clock p.m. to open the ballot boxes used at the said election, examine and count the ballots in number and amount, examine and canvass the returns and declare the result of said election.

THUS DONE AND SIGNED at Houma, Louisiana, on this, the 12th day of September, 1967.

ATTEST: ---------- Mayor

---------- Clerk

SECTION 3. That this Mayor and Board of Aldermen, acting as the governing authority of said City, shall meet at its regular meeting place, the City Hall, Houma, Louisiana, on Wednesday, October 25, 1967, at seven-thirty (7:30) o'clock p.m., and shall then and there in open and public session proceed to open the ballot boxes used at the said election examine and count the ballots in number and amount, examine and canvass the returns and declare the result of said election.

SECTION 4. That the polling places set forth in the foregoing Notice of Special Election and situated within the corporate limits of the City of Houma, Louisiana, be and the same are hereby designated as the polling places at which to hold said election, and the persons named in said Notice of Special Election, all being registered voters of said City, be and they are hereby appointed as Commissioners and Clerks of Election, respectively, to serve at the polling places as indicated.

SECTION 5. That the officers above designated, or such substitutes therefor as may be selected and designated in compliance with Section 505 of Title 39 of the Louisiana [71] Revised Statutes of 1950 (R.S. 39:505), shall hold the said special election to conform with the provisions of the foregoing constitutional and statutory authority, and shall make due returns of the said election for the meeting of this Mayor and Board of Aldermen to be held at its regular meeting place, the City Hall, Houma, Louisiana, on Wednesday, October 25, 1967, at seven-thirty (7:30) o'clock p.m. Ballot boxes, rather than voting machines, shall be used in the holding of said election. The compensation of said election officers be and the same is hereby fixed at the sum prescribed by law.

SECTION 6. That the Clerk be and he is hereby em-

powered, authorized and directed to arrange for and to furnish to the said election officers, in ample time for the holding of said election, the necessary ballot boxes, blanks for tally sheets, numbered lists of voters in number and amount, duplicate compiled statements, and any and all other election paraphernalia, and he is hereby further empowered, authorized and directed to have printed and to furnish to the said election officers the ballots necessary for the holding of said election, which ballots shall be drawn up in accordance with law and in conformity with this resolution.

SECTION 7. That the Registrar of Voters in and for the Parish of Terrebonne, Louisiana, shall furnish to said election officers in ample time for the holding of said election the precinct registers in accordance with the provisions of Part X, Chapter I of Title 18 and Part II of Chapter 2 of Title 39 of the Louisiana Revised Statutes of 1950 and the precinct binders in accordance with the provisions of Section 509, Title 39 of the Louisiana Revised Statutes of 1950 (R.S. 39:509). That the said Registrar of Voters shall be requested to prepare a list of the resident property taxpayers of the City of Houma, Louisiana, qualified and entitled to vote at said election under the Constitution and Laws of this State, together with the assessed valuation of each taxpayer's property as shown by the assessment roll last made, filed and of record prior to said election, in order to assist the said election officers.

SECTION 8. That application be and the same is hereby further made to said State Bond and Tax Board for its consent and authority to issue and sell said bonds and provide for the payment thereof in the event said election carries, said bonds to be payable solely from the income and revenues to be derived from the operation of the combined electric light and power plant system, water

supply purification and distribution plant system and natural gas system of said City.

SECTION 9. That a certified copy of this resolution shall be forwarded to the said State Bond and Tax Board by the Clerk of the City of Houma, with a letter requesting the prompt consideration and approval of this application.

This resolution having been submitted to a vote, the vote thereon was as follows:

[72] YEAS: Christian Louis Olivier, Jr., Wilbert A. Bonvillain, Sam Lusco, Charles H. Davidson and Peter G. Bourgeois, Jr.

NAYS: None.

ABSENT: None.

And the resolution was declared adopted on this, the 12th day of September, 1967.

/s/ Robert F. Bourg
Clerk

/s/ G. Leslie Broussard
Mayor

[73] STATE OF LOUISIANA
PARISH OF TERREBONNE

I, the undersigned Clerk of the City of Houma, State of Louisiana, do hereby certify that the foregoing eight (8) pages constitute a true and correct copy of the proceedings taken by the Mayor and Board of Aldermen of said City on September 12, 1967, ordering and calling a special election to be held in the City of Houma, State of Louisiana, to authorize the issuance of revenue bonds of said City, and making application to the State Bond and Tax Board in connection therewith.

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of said City at Houma, Louisiana, on this, the 12th day of September, 1967.

/s/ Robert L. Bourg
Clerk

EXHIBIT "E"

[74]

PROCEEDINGS OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF HOUMA, STATE OF LOUISIANA, TAKEN AT A SPECIAL MEETING HELD ON WEDNESDAY, OCTOBER 25, 1967.

The Mayor and Board of Aldermen of the City of Houma, State of Louisiana, met in special session at their regular meeting place, the City Hall, Houma, Louisiana, on Wednesday, October 25, 1967, at seven-thirty (7:30) o'clock p.m., pursuant to the provisions of a resolution adopted on September 12, 1967, and the following written notice served on each and every member of the Board and duly posted in the manner required by law, viz:

Houma, Louisiana
October 23, 1967

NOTICE IS HEREBY GIVEN that a special meeting of the Mayor and Board of Aldermen of the City of Houma, State of Louisiana, has been ordered and called and will be held at their regular meeting place, the City Hall, Houma, Louisiana, on Wednesday, October 25, 1967, at seven-thirty (7:30) o'clock p.m., for the following purposes, to-wit:

1. To open the ballot boxes used at the special election to be held in the City of Houma, State of Louisiana, on Tuesday, October 24, 1967, examine and count the ballots in number and amount, examine and canvass the the returns and declare the result of the said special election.

2. To consider and transact any other business which may be properly brought before the Mayor and Board of Aldermen.

This will be an important meeting and you are urged to attend. The meeting will be open to the public as required by law.

/s/ G. Leslie Broussard
Mayor, City of Houma, Louisiana

STATE OF LOUISIANA
PARISH OF TERREBONNE

Received the foregoing call and did serve a duly certified copy on the members of the Board of Aldermen of the City of Houma, Louisiana, in the manner, on the date and at the hour specified opposite their respective names:

[75]

WILBERT A. BONVILLAIN
/s/ Wilbert A. Bonvillain 4:12 P.M., October 24, 1967

PETER G. BOURGEOIS, JR.
/s/ Mrs. Peter Bourgeois 4:35 P.M., October 24, 1967

CHARLES H. DAVIDSON
/s/ C. H. Davidson 4:45 P.M., October 24, 1967

SAM LUSCO
/s/ Mrs. Sam Lusco 5:04 P.M., October 24, 1967

CHRISTIAN L. OLIVIER, JR.
/s/ Christian L. Olivier, Jr. 4:20 P.M., October 24, 1967

all of which was done more than eight (8) hours prior to the hour and date set for the holding of said meeting, as provided by law.

IN FAITH WHEREOF, I hereby make this my return and hereunto affix my signature at Houma, Louisiana, on this, the 24 day of October, 1967.

/s/ Ptn. M. Bergeron
Title:

There were present: Hon. G. Leslie Broussard, Mayor,

and Aldermen Wilbert A. Bonvillain, Peter G. Bourgeois, Jr., Charles H. Davidson, Sam Lusco and Christian L. Olivier, Jr.

There was absent: None.

The Mayor and Board of Aldermen of the City of Houma, State of Louisiana, were duly convened as the governing authority of said City by Hon. G. Leslie Broussard, Mayor, who announced the purposes of the meeting in accordance with the aforesaid written notice thereof and then stated that the Mayor and Board of Aldermen were ready for the transaction of business.

[76] The following resolution was offered by Mr. Olivier and seconded by Mr. Bourgeois:

RESOLUTION

A resolution providing for the opening of the ballot boxes used at the special election held in the City of Houma, State of Louisiana, on Tuesday, October 24, 1967, canvassing the returns and declaring the result of the said election.

BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Houma, State of Louisiana, acting as the governing authority of said City:

SECTION 1. That this Mayor and Board of Aldermen do now proceed in open and public session to open the ballot boxes used at the special election held in the City of Houma, State of Louisiana, on Tuesday, October 24, 1967, to authorize the issuance of revenue bonds of said City, and proceed to examine and count the ballots in number and amount, examine and canvass the returns and declare the result of the said special election.

SECTION 2. That a Proces Verbal of the canvass of the returns of said special election shall be made and that a certified copy thereof shall be forwarded to the Secretary of State, Baton Rouge, Louisiana, who shall record the same in his office; that another certified copy thereof shall be forwarded to the Clerk of Court and Ex-Officio Recorder of Mortgages in and for the Parish of Terrebonne, Louisiana, who shall record the same in the Mortgage Records of said Parish; and that another copy thereof shall be retained in the archives of this Mayor and Board of Aldermen.

SECTION 3. That the result of said special election shall be promulgated by publication in the manner provided by law.

This resolution having been submitted to a vote, the vote thereon was as follows:

YEAS: Aldermen Bonvillain, Bourgeois, Davidson, Lusco and Olivier.

NAYS: None.

ABSENT: None.

And the resolution was declared adopted on this, the 25th day of October, 1967.

/s/ Robert F. Bourg
Clerk

/s/ G. Leslie Broussard
Mayor

[77] PROCES VERBAL

PROCES VERBAL OF THE CANVASS OF THE VOTES CAST AT THE SPECIAL ELECTION HELD IN THE CITY OF HOUMA, STATE OF LOUISIANA, ON TUESDAY, OCTOBER 24, 1967.

BE IT KNOWN AND REMEMBERED that on Wednesday, October 25, 1967, at seven-thirty (7:30) o'clock

p.m., at its regular meeting place, the City Hall, Houma, Louisiana, the Mayor and Board of Aldermen of the City of Houma, State of Louisiana, acting as the governing authority of said City and being the authority ordering the special election held therein on Tuesday, October 24, 1967, with the following members present:

Hon. G. Leslie Broussard, Mayor, and Aldermen Wilbert A. Bonvillain, Peter G. Bourgeois, Jr., Charles H. Davidson, Sam Lusco and Christian L. Olivier, Jr.;

There being absent: None;

did, in public session, open the ballot boxes, did examine and count the ballots in number and amount, did examine and canvass the returns and did declare the result of the said special election, there having been submitted at said special election the following proposition, to-wit:

PROPOSITION

> Shall the City of Houma, State of Louisiana, issue its revenue bonds to the amount of Ten Million Dollars ($10,000,000.00), to run twenty-five (25) years from date thereof, with interest at a rate not exceeding six per centum (6%) per annum, for the purpose of constructing and acquiring extensions and improvements to the combined electric light and power plant system, water supply purification and distribution plant system and natural gas system of said City, said bonds to be payable as to principal and interest solely from the income and revenues to be derived from the operation of said combined utility, pursuant to the provisions of Sub-Part C, Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950?

There was found by said count and canvass that the following votes in number and the following amounts in valuation of property had been cast at the said special elec-

tion IN FAVOR OF and AGAINST, respectively, the proposition as hereinabove set forth at the following polling places, to-wit:

[78] POLLING PLACE: Parish Ward 3, Precinct 1 (City Ward 2, Precinct 2) Charles D. Chauvin Building, 100 Verret St., Houma, Louisiana
No. of votes for 91; Property Valuation $110,540
No. of votes against 25; Property Valuation $ 24,060

POLLING PLACE: Parish Ward 3, Precinct 2 (City Ward 2, Precinct 3) Court House Building, Main Street, Houma, Louisiana
No. of votes for 90; Property Valuation $274,118
No. of votes against 36; Property Valuation $ 94,684

POLLING PLACE: Parish Ward 3, Precinct 3 (City Ward 3, Precinct 1) Municipal Auditorium, 880 Verret Street, Houma, Louisiana
No. of votes for 134; Property Valuation $389,260
No. of votes against 35; Property Valuation $ 78,760

POLLING PLACE: Parish Ward 3, Precinct 4 (City Ward 3, Precinct 2) Greater Houma Fire Station, Engeron Street, Houma, Louisiana
No. of votes for 89; Property Valuation $143,455
No. of votes against 82; Property Valuation $ 74,590

POLLING PLACE: Parish Ward 3, Precinct 5 (City Ward 4, Precinct 1) V.F.W. Hall, 1613 Barrow Street, Houma, Louisiana
No. of votes for 78; Property Valuation $147,402
No. of votes against 24; Property Valuation $ 21,440

POLLING PLACE: Parish Ward 3, Precinct 6 (City Ward 4, Precinct 2) Pellegrin Sales Company, 1005 Dunn Street, Houma, Louisiana
No. of votes for 105; Property Valuation $135,860
No. of votes against 26; Property Valuation $ 31,200

[79] POLLING PLACE: Parish Ward 3, Precinct 7 (City Ward 1, Precinct 1) Bourg Bros. Moving and Storage Co., 602 West Park Avenue, Houma, Louisiana
No. of votes for 86; Property Valuation $ 82,585
No. of votes against 31; Property Valuation $ 30,175

POLLING PLACE: Parish Ward 3, Precinct 8 (City Ward 1, Precinct 2) West Park School, West Park Avenue, Houma, Louisiana

No. of votes for 112; Property Valuation $231,897
No. of votes against 36; Property Valuation $ 76,080

POLLING PLACE: Parish Ward 3, Precinct 9 (City Ward 1, Precinct 3) Dixieland Hobby Shop, 109 Suthon Avenue, Houma, Louisiana
No. of votes for 107; Property Valuation $201,325
No. of votes against 25; Property Valuation $ 26,760

POLLING PLACE: Parish Ward 3, Precinct 10 (City Ward 1, Precinct 4) American Legion Home, Legion Avenue, Houma, Louisiana
No. of votes for 72; Property Valuation $123,440
No. of votes against 31; Property Valuation $ 41,340

POLLING PLACE: Parish Ward 3, Precinct 11 (City Ward 1, Precinct 5) East Park School, East Park Avenue, Houma, Louisiana
No. of votes for 110; Property Valuation $ 78,295
No. of votes against 50; Property Valuation $ 41,620

POLLING PLACE: Parish Ward 3, Precinct 12 (City Ward 1, Precinct 6) East Park Recreational Center, Robert Street, Houma, Louisiana
No. of votes for 123; Property Valuation $ 96,110
No. of votes against 58; Property Valuation $ 40,595

[80] POLLING PLACE: Parish Ward 3, Precinct 13 (City Ward 3, Precinct 3) Terrebonne Parish Public Library, East Houma Branch, 1609 East Main Street, Houma, Louisiana
No. of votes for 43; Property Valuation $ 52,370
No. of votes against 37; Property Valuation $ 34,130

POLLING PLACE: Parish Ward 3, Precinct 14 (City Ward 3, Precinct 4) Waterworks District No. 1 Office, 2300 East Main St., Houma, Louisiana
No. of votes for 113; Property Valuation $ 68,695
No. of votes against 50; Property Valuation $ 44,680

POLLING PLACE: Parish Ward 3, Precinct 15 (City Ward 3, Precinct 5) Quality Furniture Store, 1910 Tunnel Blvd., Houma, Louisiana
No. of votes for 87; Property Valuation $ 89,170
No. of votes against 83; Property Valuation $113,754

POLLING PLACE: Parish Ward 3, Precinct 16 (City Ward 3, Precinct 6) Hudman's Texaco Service Station, Grand Caillou Rt., Houma, Louisiana
No. of votes for 99; Property Valuation $103,441
No. of votes against 75; Property Valuation $ 79,230

POLLING PLACE: Parish Ward 3, Precinct 17 (City Ward 3, Precinct 7) Oaklawn School, Grand Caillou

Rt., Houma, Louisiana
No. of votes for 93; Property Valuation $ 94,630
No. of votes against 72; Property Valuation $ 76,500

POLLING PLACE: Parish Ward 3, Precinct 18 and Parish Ward 9, Precinct 2C (City Ward 4, Precinct 3) South Houma Fire Station, Highway 90 West, Houma, Louisiana
No. of votes for 130; Property Valuation $244,740
No. of votes against 91; Property Valuation $148,235

POLLING PLACE: Parish Ward 3, Precinct 22 (City Ward 2, Precinct 1) Terrebonne High School, West Main Street Houma, Louisiana
No. of votes for 66; Property Valuation $ 68,925
No. of votes against 29; Property Valuation $ 30,435

[81] The polling places above specified being the only polling places designated at which to hold the said election, it was therefore shown that there was a majority of 932 votes in number, representing an assessed valuation of $1,627,990 in amount cast IN FAVOR OF the proposition as hereinabove set forth.

Therefore, the Mayor and Board of Aldermen of the City of Houma, State of Louisiana, acting as the governing authority of said City, did declare and proclaim and do hereby declare and proclaim in open and public session that the proposition as hereinabove set forth was duly carried by a majority in both number and amount of votes cast by the qualified voters, resident property taxpayers, voting at the said special election held in said City on Tuesday, October 24, 1967.

THUS DONE AND SIGNED at Houma, Louisiana, on this, the 25th day of October, 1967.

/s/ Robert F. Bourg
Clerk

/s/ G. Leslie Broussard
Mayor

MEMBERS, BOARD OF ALDERMEN

/s/ Sam Lusco
/s/ C. H. Davidson
/s/ Wilbert A. Bonvillain
/s/ Christian L. Olivier, Jr.
/s/ Peter G. Bourgeois, Jr.

[82] PROCLAMATION

I, G. LESLIE BROUSSARD, Mayor of the City of Houma, State of Louisiana, do hereby announce and proclaim the result of the special election held in said City on Tuesday, October 24, 1967, as ascertained by the canvass of the votes cast at the said election made by the Mayor and Board of Aldermen of the City of Houma, State of Louisiana, and assembled at its regular meeting place, the City Hall, Houma, Louisiana, on Wednesday, October 25, 1967, at seven-thirty (7:30) o'clock p.m., which canvass showed the following result upon the proposition submitted at the said special election, to-wit:

PROPOSITION

Shall the City of Houma, State of Louisiana, issue its revenue bonds to the amount of Ten Million Dollars ($10,000,000.00), to run twenty-five (25) years from date thereof, with interest at a rate not exceeding six per centum (6%) per annum, for the purpose of constructing and acquiring extensions and improvements to the combined electric light and power plant system, water supply purification and distribution plant system and natural gas system of said City, said bonds to be payable as to principal and interest solely from the income and revenues to be derived from the operation of said combined utility, pursuant to the provisions of Sub-Part C, Part I, Chapter 10, Title 33 of the Louisiana Revised Statutes of 1950?

There was found by said count and canvass that the following votes in number and the following amounts in valuation of property had been cast at the said special election IN FAVOR OF and AGAINST, respectively, the proposition as hereinabove set forth at the following polling places, to-wit:

[83] POLLING PLACE: Parish Ward 3, Precinct 1 (City Ward 2, Precinct 2) Charles D. Chauvin Building, 100 Verret St., Houma, Louisiana
No. of votes for 91; Property Valuation $110,540
No. of votes against 25; Property Valuation $ 24,060

POLLING PLACE: Parish Ward 3, Precinct 2 (City Ward 2, Precinct 3) Court House Building, Main Street, Houma, Louisiana
No. of votes for 90; Property Valuation $274,118
No. of votes against 36; Property Valuation $ 94,684

POLLING PLACE: Parish Ward 3, Precinct 3 (City Ward 3, Precinct 1) Municipal Auditorium, 880 Verret Street, Houma, Louisiana
No. of votes for 134; Property Valuation $389,260
No. of votes against 35; Property Valuation $ 78,760

POLLING PLACE: Parish Ward 3, Precinct 4 (City Ward 3, Precinct 2) Greater Houma Fire Station, Engeron Street, Houma, Louisiana
No. of votes for 89; Property Valuation $143,455
No. of votes against 82; Property Valuation $ 74,590

POLLING PLACE: Parish Ward 3, Precinct 5 (City Ward 4, Precinct 1) V.F.W. Hall, 1613 Barrow Street, Houma, Louisiana
No. of votes for 78; Property Valuation $147,402
No. of votes against 24; Property Valuation $ 21,440

POLLING PLACE: Parish Ward 3, Precinct 6 (City Ward 4, Precinct 2) Pellegrin Sales Company, 1005 Dunn Street, Houma, Louisiana
No. of votes for 105; Property Valuation $135,860
No. of votes against 26; Property Valuation $ 31,200

[84] POLLING PLACE: Parish Ward 3, Precinct 7 (City Ward 1, Precinct 1) Bourg Bros. Moving and Storage Co., 602 West Park Avenue, Houma, Louisiana
No. of votes for 86; Property Valuation $ 82,585
No. of votes against 31; Property Valuation $ 30,175

POLLING PLACE: Parish Ward 3, Precinct 8 (City Ward 1, Precinct 2) West Park School, West Park Avenue, Houma, Louisiana
No. of votes for 112; Property Valuation $231,897
No. of votes against 36; Property Valuation $ 76,080

POLLING PLACE: Parish Ward 3, Precinct 9 (City Ward 1, Precinct 3) Dixieland Hobby Shop, 109 Suthon Avenue, Houma, Louisiana

No. of votes for 107; Property Valuation $201,325
No. of votes against 25; Property Valuation $ 26,760

POLLING PLACE: Parish Ward 3, Precinct 10 (City Ward 1, Precinct 4) American Legion Home, Legion Avenue, Houma, Louisiana
No. of votes for 72; Property Valuation $123,440
No. of votes against 31; Property Valuation $ 41,340

POLLING PLACE: Parish Ward 3, Precinct 11 (City Ward 1, Precinct 5) East Park School, East Park Avenue, Houma, Louisiana
No. of votes for 110; Property Valuation $ 78,295
No. of votes against 50; Property Valuation $ 41,620

POLLING PLACE: Parish Ward 3, Precinct 12 (City Ward 1, Precinct 6) East Park Recreational Center, Robert Street, Houma, Louisiana
No. of votes for 123; Property Valuation $ 96,110
No. of votes against 58; Property Valuation $ 40,595

[85] POLLING PLACE: Parish Ward 3, Precinct 13 (City Ward 3, Precinct 3) Terrebonne Parish Public Library, East Houma Branch, 1609 East Main Street, Houma, Louisiana
No. of votes for 43; Property Valuation $ 52,370
No. of votes against 37; Property Valuation $ 34,130

POLLING PLACE: Parish Ward 3, Precinct 14 (City Ward 3, Precinct 4) Waterworks District No. 1 Office, 2300 East Main St., Houma, Louisiana
No. of votes for 113; Property Valuation $ 68,695
No. of votes against 50; Property Valuation $ 44,680

POLLING PLACE: Parish Ward 3, Precinct 15 (City Ward 3, Precinct 5) Quality Furniture Store, 1910 Tunnel Blvd., Houma, Louisiana
No. of votes for 87; Property Valuation $ 89,170
No. of votes against 83; Property Valuation $113,754

POLLING PLACE: Parish Ward 3, Precinct 16 (City Ward 3, Precinct 6) Hudman's Texaco Service Station, Grand Caillou Rt., Houma, Louisiana
No. of votes for 99; Property Valuation $103,441
No. of votes against 75; Property Valuation $ 79,230

POLLING PLACE: Parish Ward 3, Precinct 17 (City Ward 3, Precinct 7) Oaklawn School, Grand Caillou Rt., Houma, Louisiana
No. of votes for 93; Property Valuation $ 94,630
No. of votes against 72; Property Valuation $ 76,500

POLLING PLACE: Parish Ward 3, Precinct 18 and Parish Ward 9, Precinct 2C (City Ward 4, Precinct 3) South Houma Fire Station, Highway 90 West, Houma, Louisiana

No. of votes for 130; Property Valuation $244,740
No. of votes against 91; Property Valuation $148,285

POLLING PLACE: Parish Ward 3, Precinct 22 (City Ward 2, Precinct 1) Terrebonne High School, West Main Street Houma, Louisiana

No. of votes for 66; Property Valuation $ 68,925
No. of votes against 29; Property Valuation $ 30,435

[86] The polling places above specified being the only polling places designated at which to hold the said election, it was therefore shown that there was a majority of 932 votes in number, representing an assessed valuation of $1,627,990 in amount cast IN FAVOR OF the proposition as hereinabove set forth.

THEREFORE, in accordance with the result of the canvass of returns and the action of the Mayor and Board of Aldermen of the City of Houma, State of Louisiana, acting as the governing authority of said City, I, G. LESLIE BROUSSARD, Mayor of said City, do hereby proclaim, declare and announce the said proposition as hereinabove set forth to have been duly carried by a majority in both number and amount of the votes cast by the qualified voters, resident property taxpayers, voting at the said special election held in the City of Houma, State of Louisiana, on Tuesday, October 24, 1967.

THUS DONE AND SIGNED at Houma, Louisiana, on this, the 25th day of October, 1967.

/s/ G. Leslie Broussard
Mayor

ATTEST:
/s/ Robert F. Bourg
Clerk

[87]

IN THE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

CIVIL ACTION

No. 67-1853

SECTION C

JOSEPH Q. CIPRIANO

VS

CITY OF HOUMA,
G. LESLIE BROUSSARD, MAYOR,
CHRISTIAN L. OLIVIER, CHARLES DAVIDSON,
PETER BOURGEOIS, JR., SAMUEL LUSCO and
WILBERT P. BONVILLAIN

Deposition of JOSEPH Q. CIPRIANO taken February 29, 1968 in the office of Messrs. Watkins, Watkins & Walker, Attorneys at Law, Houma, Louisiana, commencing at 11:00 o'clock a. m.

APPEARANCES:

Messrs. Watkins, Watkins & Walker
Attorneys for Plaintiff, represented by
Mr. Kenneth Watkins
Mr. Ted J. Borowski
Mr. Eugene Huppenbauer
Attorneys for Defendants

STIPULATION

It is stipulated and agreed by and between counsel for the parties that this deposition is being taken for purposes of discovery, that all formalities including reading, signing, sealing, certification and filing

are waived, and that all objections except those as to the form of the questions are reserved to the time of the trial.

MR. WATKINS:

To the extent that this deposition is requested by Mr. Borowski and Mr. Huppenbauer to verify all allegations needed for the purpose of the previously agreed upon agreement to stipulate the facts as alleged in this lawsuit I have no objection to this deposition depending upon the nature of it or the purpose of it. Beyond that scope we may have objection.

MR. HUPPENBAUER:

At the time of the filing of the notice for this deposition the deposition was originally fixed for February 20, 1968. The deposition was postponed by agreement of counsel at the request of Mr. Borowski and a pretrial conference was held prior to the taking of the deposition. Counsel will admit that perhaps the sequence of the deposition and the pretrial conference is somewhat out of order, but it was counsel's intention to depose the plaintiff prior to the pretrial. Nevertheless, we wish to proceed with the deposition as originally planned.

JOSEPH Q. CIPRIANO, after being duly sworn by Lucile W. Cain, Official Court Reporter for the 17th Judicial District Court, Parishes of Terrebonne and Lafourche, Louisiana, testified as follows:

MR. HUPPENBAUER:

Q Mr. Cipriano, are you the Joseph Q. Cipriano plaintiff in Civil Action No. 67-1853 filed in United States District Court, Eastern District of Louisiana, New Orleans Division?

A If that's the correct number. I wouldn't be familiar with the number. Yes.

Q You are the plaintiff who has filed suit against the City of Houma and Mayor and Board of Aldermen in Federal Court?

A In the United States District Court, yes.

Q One of the allegations of your petition is that you are being deprived of certain civil rights. Can you explain what civil rights you are being deprived of?

A Well, after consulting with Mr. Watkins about the problem that confronted me, of course, and a number of other folks I'm certain as not being an owner of real property in the City of Houma I was unable to vote in the election that was held as a revenue bond election. It was necessary to be a property owner, and, of course, it was presented to the public as not being, having any taxes involved, and as a result, of course, I was deprived of a right to vote for taxes which in a sense would have been imposed upon me or would be imposed upon me by others.

Q Are you sure whether or not there would be any taxes involved as a result of this election?

A They said there was no taxes, but in my particular case there would be an increase in costs of electrical service, and, of course, if this is what provides the revenues then this in essence is taxes.

Q On what basis do you state that there would be an increase in the cost of electrical services to you?

A Because the City of Houma's rates are higher in my particular situation and unquestionably would cost me more money each month.

Q What do you mean in your particular situation? Will you explain that?

A My average use of electric service.

Q Do you pay to the City of Houma at this time rates for electrical service?

A No, I don't. I pay them to the Louisiana Power & Light Company.

Q Do you know the difference in rate between the power company and the city?

A Not to the exact penny. I think the breaking point is somewhere around 6, 7, 800 kilowatt hours and after that point it probably, the cost above that of Louisi-

ana Power & Light Company would range somewhere I think 4.50 and $5.00 a thousand kilowatt hours.

Q Why do you say you would be paying a higher rate to the City when you are presently paying to the power company. Why would you not continue to pay your rate to the power company?

A In the same bond issue they presented the fact that they would hope to take over the utilities in East Houma.

Q Was this in the proposition that was submitted to the voters?

A Yes, it was indicated that it was to provide all of the services within the incorporated area of the City of Houma, and certainly this would include both the water and the electric company operations in those areas.

Q Do you reside within the city limits of the City of Houma?

A Yes, I do.

Q Did you actually look at one of the ballots submitted to the voters in this election?

A At one of the ballots, no sir. I would say not the ballot, because I wasn't allowed to vote, so I wouldn't have seen them. I did see them after the election when the votes were promulgated. Would that be reasonable to say I'd seen them?

Q Did you see the proposition at all as published in the newspaper?

A Yes.

Q You read the proposition that was published in the newspaper which was submitted to the voters?

A Yes, sir.

Q Have you voted in any other previous election called by the city for either bonds to be secured by ad valorem taxation or revenues of the utility system?

A No.

Q How long have you been a resident of the City of Houma?

A Since June 1st of 1965.

Q You are a registered voter in the city?

A Yes, sir, I am.

Q You do not own any property in the city?

A Not any real property.

Q Do you rent property?

A Yes, sir.

Q You're living in the city limits?

A Yes, sir.

Q Did you attempt to vote at all in this particular election, Mr. Cipriano?

A No, I didn't, because it was advertised that you must be a registered property owner.

Q You did not go to the polls?

A No, sir, I did not go to the polls.

Q Your action seeks an injunction against the city. Why did you not bring this suit prior to the election date?

A Well, I guess I would first say that I was quite confident that no local voters would pass such a proposition and was certainly busy working to have the proposition defeated.

Q Why would you not have desired to vote against this election since you were deprived of your right and had sued to enjoin the election prior to the date of the election?

A I'm not quite certain I understand that.

Q Since you claim you have been deprived of a civil right why would you not have enjoined the city so that you could exercise your civil right and vote or have a Court pass on that?

MR. WATKINS:

I think Mr. Cipriano has previously answered that question that his counsel when he discussed this

gave him the legal grounds when he complained of not having his right and his counsel, he's not a lawyer that would have any legal explanation.

MR. HUPPENBAUER:

Q Where are you presently employed?

A At Louisiana Power & Light Company here in Houma.

Q At the regional office here?

A At the district office on Tunnel Boulevard.

Q Do you know when the city held their last election on these revenue bonds? Was that election held while you were a resident here?

A There have been no previous revenue issues or there were none except this one since I've been residing in the City of Houma. The only other comments I can make would be purely hearsay that it was in '62 and '63.

Q Where did you reside before you arrived here in the City of Houma?

A In the community of Luling in St. Charles Parish.

Q You have brought this action under Rule 23 of the Federal Rules which is the class action statute. Would you define what class you determine yourself to be in to bring this action?

A Well, I would say generally that this would be the group of non-property owners who were not allowed to vote in this election and all of the people who did not own property were not allowed to vote.

Q Are you stating that the law did not permit you to vote or the city disallowed you to vote?

A Well, I couldn't give you the legal ramifications. It was advertised and stated a number of times. As I recall the city called for the election in assuming promotional material that you had to be a registered voter and property owner in order to vote in this election.

Q You do not know the particular statute under which the election was called, do you?

A No, sir, not as such other than what Mr. Watkins has informed me.

Q Are you at all familiar with a suit brought against the city in the state court enjoining the effect of this bond election?

A Is there a specific suit?

Q Dupre vs. City of Houma and others. Are you familiar with that suit?

A I am familiar that one has been filed.

Q Do you have an interest in that suit?

A No, sir. When you say an interest I'm not associated with it in any way.

Q I know you're not a party plaintiff. You have no personal or financial interest in that suit?

A No financial interest at all. As far as a personal interest I would say that I would be interested in having the bond election—what would we say—set aside.

Q Mr. Cipriano, does your employer have any interest in this litigation?

A I would presume that they would certainly have a general interest in it, because certainly they opposed the bond election.

MR. WATKINS:

Don't answer that question any further, Joe. It is entirely beyond the scope of this. This is a private suit brought.

MR. BOROWSKI:

Q You stated that you have been living in the City of Houma here in Terrebonne Parish since June 1st, 1965.

A That is the day I moved in, yes, sir.

Q Prior to this you had lived in Luling?

A Yes, sir, that is correct.

Q Did you own any property there?

A No, sir, I did not.

Q Do you own any property in the State of Louisiana in any parish?
A No, sir, not at this time.

Q Either that you purchased yourself or inherited?
A No, sir. This wouldn't include a tomb or anything like that?

Q No. Are you married?
A Yes.

Q You have any children?
A Yes.

Q Where do your wife and children reside?
A At 304 Foster Drive.

Q Did they move to Houma with you on June 1st, '65?
A Yes.

Q Prior thereto they lived with you in Luling?
A Yes.

Q Did you all vote in Luling?
A Yes.

Q When was the last time you voted there?
A Well, I guess the last time there was an election when I was living there. I don't recall the date.

Q Did you vote there in '65?
A If there was an election in '65 and I can't recall.

Q What type of an election are you talking about?

MR. WATKINS:

He didn't say there was any.

MR. BOROWSKI:

I said if there was.

A I have voted in every election that I can recall since I've been a registered voter and my wife has done the same.

Q Then if there was an election you are alluding to the

type of election which would be election of local officers or on a statewide basis, is that correct?

A That would be correct.

Q Prior to your moving to Houma and while you were living in Luling in whose employ were you at that time?

MR. WATKINS:

Immaterial but go ahead.

A Louisiana Power & Light Company.

MR. BOROWSKI:

Q How long have you been employed by Louisiana Power & Light Company?

A Since 1948, approaching 20 years.

Q In what present capacity are you acting now here in Houma?

A As district manager.

Q Was that your title also in Luling?

A Yes, sir, it was.

MR. BOROWSKI:

I have no further questions.

MR. HUPPENBAUER:

I have none.

MR. WATKINS:

Q Is it your custom to vote in every election in which you are allowed to vote?

A Yes.

Q Has this been your practice as well as your custom?

A Yes.

Q Is this the practice of your wife also?

A Yes.

Q Have you so done since you have been a resident of the City of Houma?

A Yes.

Q Have you so done since prior to that time?
A Yes.

MR. WATKINS:

No further questions.

MR. BOROWSKI:

Q If I understood Mr. Watkins correctly you have voted in Terrebonne Parish or the City of Houma since you've been here?
A Yes.

STATE OF LOUISIANA
PARISH OF TERREBONNE

I, Lucile W. Cain, Official Court Reporter for the 17th Judicial District Court, Parishes of Terrebonne and Lafourche, Louisiana, do hereby certify that after he had been duly sworn the witness, MR. JOSEPH Q. CIPRIANO, testified in the above entitled matter on February 29, 1968 in the offices of Messrs. Watkins, Watkins & Walker, Attorneys at Law, Houma, Louisiana, commencing at 11:00 o'clock a. m.; that the testimony of the witness was taken down in shorthand by me and by me reduced to typewritten matter; that the above and foregoing 12 pages constitute a true and faithful transcription of my stenographic notes taken in the above entitled and numbered cause.

I further certify that I am not an attorney, counsel or employee of any of the parties or of any counsel connected with the action, and that I have no financial interest therein.

In Faith, Whereof, Witness my signature hereunto affixed at Houma, Parish of Terrebonne, Louisiana, on this 1st day of March, A. D. 1968.

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[88] [Plaintiff's Exhibits attached]

Mr. and Mrs. Houma:

A 'YES' vote on October 24 will mean

1. Low insurance rates . . .

The city bond issue will allow the city to undertake its five-year program of improvements outlined in previous news releases and prevent Houma from losing its Class 4 fire rating. What will this mean? The chart below, prepared by insurance authorities, indicates that residents will pay more than $230,000 extra each year for fire insurance if the city drops to Class 6 as is expected without the improvements. This would be far more than the funds it will take to retire the $1,620,000 in bonds to be used for waterworks improvements. In addition, your city will have a better water system and our citizens will be safer with better fire protection.

The estimated annual premium reduction or increase to the citizens of Houma with reference to changes in fire insurance rates resulting from specific changes in town protection grading is as follows:

Change in Town Protection Grading	Estimated Effect to Premium Volume
1. From Class 4 to Class 3	$35,000 - $ 40,000 reduction
2. From Class 4 to Class 5	$175,000 - $185,000 increase
3. From Class 4 to Class 6	$230,000 - $245,000 increase

2. Low water rates . . .

The city is presently seeking to equalize all water rates within the city limits, whether this involves acquiring the district's customers, through mutual agreement, or otherwise. The first meeting to discuss this subject is being held this week, on Monday, October 16. We feel that the residents of East Houma should have the same low water rates enjoyed by other residents and businesses.

3. And NO new taxes!

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3. And NO new taxes!

The City of Houma will not and CANNOT add one penny of additional taxation to retire the bond issue to be voted upon October 24. This is a revenue bond issue, to be retired through revenues of the city's utility system which, studies indicate, can easily support it during the coming years.

For a Greater Houma in the years ahead . .

VOTE **YES** ON OCTOBER 24

IN THE

City Utility Revenue Bond Election

Only registered property - owners of the city may vote. If you are one of them, please go to your regular voting precinct on Tuesday, October 24 and vote "Yes".

P-1

'YES' vote on October 24 Will mean

1. Sufficient electrical power in the 1970's

Surveys indicate that by 1970, the city will need an additional source of power. Of the total $10 million bond issue to be voted upon October 24, $5,085,000 will be used to purchase a new 26,000 KW addition to the city's steam generating plant and $715,000 for improvements to its distribution system. The city has reserved a spot in the production line on the generating unit and delivery can be made by 1969, thereby saving several hundred thousand dollars because of a discount offered when the first unit was ordered. If the unit is not ordered now, delivery cannot be made until 1972 and the discount will not be allowed.

2. Additional revenue from city-wide utilities and more support for city services

The utility system of the city provides about 50 per cent of the money for fire and police protection garbage collection, sewer maintenance and other vital services. Much of these ore for areas that are not on the city's utility system. If these services are to continue to grow with the city, we must find additional money to pay for them. The city believes that expansion of its utility coverage is the logical way to do it.

3. Continued low tax rate

The City of Houma is one of 35 cities that own their generating and distributing systems. All of these cities have low tax rates, the City of Houma having the lowest. All of these cities have added to their systems from time to time by bond issues. Cities like Thibodaux, Morgan City, Franklin, Plaquemine, Natchitoches, Lafayette and Alexandria recently passed bond issues for that purpose. In their utility system expansions, Lafayette and Franklin acquired customers of Gulf States and Cleco two private power companies,

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4. And NO new taxes to retire issue

The City of Houma will not and CANNOT add one penny of additional taxation to retire the bond issue to be voted upon October 24. This is a revenue bond issue, to be retired through revenues of the city's utility system which, studies indicate, can easily support it during the coming years.

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City Utility Bond Election

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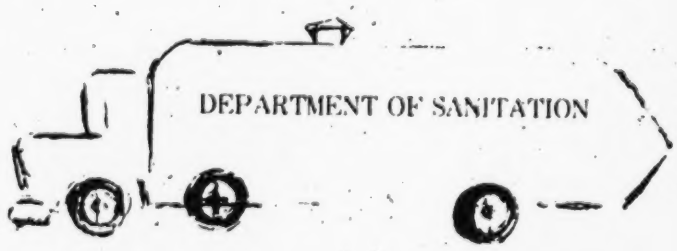
A  **YES** VOTE on OCTOBER 24

will help your city provide the

Police and Fire Protection, Garbage Collections and other vital services it must have!



Your city's utility system pays for half of these services! Only with a continued growth in that system can we afford to support them in our growing city with a minimum of taxation. A "yes" vote on October 24 will allow your city to expand its utility system and provide modern, up-to-date services for our residents and businesses.





VOTE  **YES** ON OCTOBER 24

in the

City Utility Bond Election

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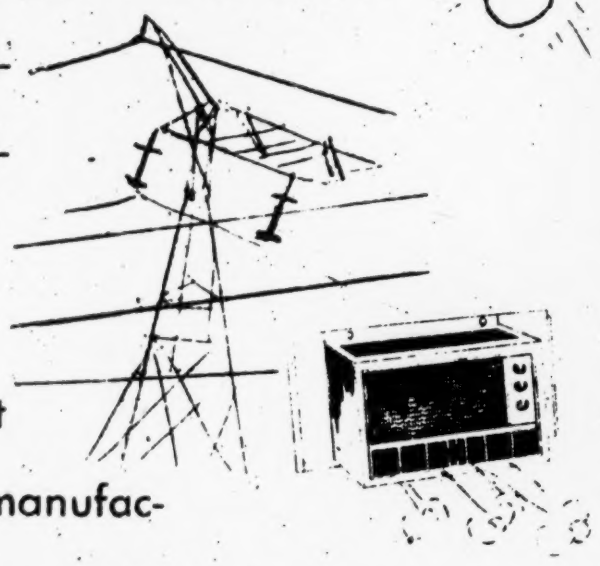
A ☑ **YES** VOTE on OCTOBER 24

will allow

Houma to meet the electrical demands of the 1970's!

Surveys indicate that by 1970, your city will need an additional source of power. Of the total $10 million bond issue to be voted upon October 24, $5,085,000 will be used to purchase a new 26,000 KW addition to the city's steam electric generating plant. If the order is placed soon, delivery of such a unit can be made by 1969 and at a discount due to an agreement made by the manufacturer when the city purchased its last unit. A "yes" vote on October 24 will allow your city to meet the electrical demands of 1970's.







VOTE ☑ **YES** ON OCTOBER 24

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City Utility Bond Election

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Mr. and Mrs. Houma:

A 'YES' vote on October 24 will mean

1. Low insurance rates . . .

The city bond issue will allow the city to undertake its five-year program of improvements outlined in previous news releases and prevent Houma from losing its Class 4 fire rating. What will this mean? The chart below, prepared by insurance authorities, indicates that residents will pay more than $230,000 extra each year for fire insurance if the city drops to Class 6 as is expected without the improvements. This would be far more than the funds it will take to retire the $1,620,000 in bonds to be used for waterworks improvements. In addition, your city will have a better water system and our citizens will be safer with better fire protection.

The estimated annual premium reduction or increase to the citizens of Houma with reference to changes in fire insurance rates resulting from specific changes in town protection grading is as follows:

Change in Town Protection Grading	Estimated Effect to Premium Volume
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2. Low water rates . . .

The city is presently seeking to equalize all water rates within the city limits, whether this involves acquiring the district's customers, through mutual agreement, or otherwise. The first meeting to discuss this subject is being held this week, on Monday, October 16. We feel that the residents of East Houma should have the same low water rates enjoyed by other residents and businesses.

3. And NO new taxes!

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For a Greater Houma in the years ahead . .

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IN THE

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Only registered property - owners of the city may vote. If you are one of them, please go to your regular voting precinct on Tuesday, October 24 and vote "Yes".

Mr. & Mrs. Houma

The future of your city and its utility system will be greatly affected by what you do on October 24

Read These Facts Before You Vote on the UTILITY BOND ISSUE

1. Your city must order a 26,000 KW steam turbine now in order to have it delivered and installed in time to meet the electrical demands of the 1970's in the area it now covers.
2. By ordering this unit now, WE WILL SAVE SEVERAL HUNDRED THOUSAND DOLLARS because of an agreement from the manufacturer to allow us a discount if this second unit is purchased within a certain period of time.
3. This unit can be purchased and paid for through revenues derived from our present customers at NO INCREASE IN ELECTRIC RATES or TAXES. Exhibit C proves this.
4. Our opponent in this election, Louisiana Power and Light Co., would prefer us not to pass this issue and purchase our firm power from them. How long do you think we could stay in the electrical business with such an arrangement? If this were to happen, the services your city provides from revenues of our utility system -- such as police and fire protection and garbage collections -- would suffer seriously and, in that case, we would have to provide additional funds through other means.
5. The City of Houma is one of 35 cities that own their generating and distribution systems. All of these cities have low tax rates, with the City of Houma having the lowest.
6. Remember Hurricane Betsy? Electricity was restored to all City of Houma customers within 2½ days. Louisiana Power and Light customers were without electricity many times longer. Do you want LP&L to provide your electrical power?
7. Louisiana Power and Light Co. claims that we already have been authorized to issue $4 million in bonds that can be used for electrical improve-

EXHIBIT A

LOUISIANA POWER & LIGHT POSITION
ON POWER PLANT EXPANSION

Louisiana Power & Light		
City Total Generating Capacity Today		39,000 KW
City Largest Single Unit		13,000 KW
City Total Firm Power		26,000 KW
Barnard & Burk Projected Peak Load in 1968		27,000 KW
Extra Power Requirement: 27,000 - 26,000	=	1,000 KW
1978 Power Requirement		6,000 KW

CITY OF HOUMA POSITION
ON POWER PLANT EXPANSION

City of Houma		
We agree Power Above Firm Power	=	1,000 KW
1978 Projected Load by Barnard & Burk is	42,000 KW	
Firm Power Today with Tie	32,000 KW	
Firm Power Requirement 1978 City		10,000 KW
L. P. & L. says above this will be the Difference		6,000 KW 4,000 KW

L. P. & L. uses Barnard & Burk report and so does the City. Why the difference?

CITY PROPOSAL IN OCT. 24 BOND ELECTION

Total Generating Capacity Today	39,000 KW
Add from Bond Election	26,000 KW
Total	65,000 KW
Firm Power Minus Largest Unit	26,000 KW
Total Firm Power	39,000 KW
Barnard & Burk Projected 1978 Demand	42,000 KW
Firm Power Requirement	3,000 KW

All without adding customers of others and without a penny tax

provide your electrical power?

7. Louisiana Power and Light Co. claims that we already have been authorized to issue $4 million in bonds that can be used for electrical improvements. This is not true. They are referring to the unused $2½ million authorized when we purchased the first steam turbine unit and $1½ million unissued from the Sales Tax Bond Issue. But the latter amount was dedicated when voted upon to fire service, police complex, recreation and drainage, as indicated in exhibit B, and cannot be used for the electrical utility system.
8. Louisiana Power and Light Co. uses the Barnard and Burk Engineering Co. figures for all of its conclusions except in determining the city's projected extra power requirements in 1978. LP&L claims that power need will be only 6,000 KW per day whereas Barnard and Burk's figures estimate this at 10,000 KW daily (as shown in Exhibit A).
9. Louisiana Power and Light Co. is quick to point out that the city's increased debt service over a 10-year period will be $3,341,859 if it purchases the 26,000-kilowatt unit but fails to note THAT PROFITS FROM EXTRA CUSTOMERS THAT THIS UNIT COULD SERVE WOULD BE FAR GREATER.
10. The City of Houma is spending some $400,000 yearly to provide services to the East Houma area -- $36,000 of which is paid directly to Louisiana Power and Light for lighting streets, parks, etc. We are getting very little in return from residents of East Houma because they are not on the city's electrical utility system, which provides money for these services.
11. Passage of the city bond issue will allow the city to undertake its five-year program of improvements outlined in previous news releases and prevent Houma from losing its Class 4 fire rating. This will mean insurance premiums paid by Houma residents each year will be at least $230,000 less than if the city dropped to Class 6 fire rating, which is expected if the improvements are not made.

For a greater Houma in years ahead ...

VOTE ✓ YES

TUESDAY

in the

All without taxing customers or others and without a penny tax

EXHIBIT B

October 24, Bond Election

Total Bonds to be issued		$10,000,000.00
Water Lines	$1,620,000.00	
26,000 KW Generator	5,085,000.00	
Distribution System	715,000.00	
Balance		7,420,000.00
		$2,580,000.00

Sales Tax Election Bond Authority

Issued as dedicated	$3,380,000.00	
Un issued & dedicated for		
Fire Service	275,000.00	
Police Complex	375,000.00	
Recreation	575,000.00	
Drainage	450,000.00	
Total	$4,775,000.00	
Available for Water or Electric Utility		NONE
1965 Power Plant Bond Issue	$6,890,000.00	
Issued for New Steam Plant and Distribution System	4,320,000.00	
Unissued		$2,570,000.00
Total in Reserve Authority		$5,150,000.00

FINANCING PROGRAM

Bonds to be issued out of $10,000,000.00 Election

Water Lines	$1,620,000.00	
26,000KW Generator	5,085,000.00	
Distribution System	715,000.00	
Total		$7,420,000.00
New Customers Required		**NONE**
Taxes Required		**NONE**
Rate Increase Planned		**NONE**
Taxpayer Cost		**NONE**
Financed with present income		$7,420,000.00

CUSTOMER ACQUISITION

Reserve Bond Authority Above	$5,150,000.00
To be issued	UNKNOWN
Financed out of profits from customers acquired	ALL ISSUED
Taxes Required	NONE

RESULTS

Some Lower Rates Will Result for Some Houma, Citizens
Additional Revenue will go to the City General Fund
Continued Progress for The City of Houma
ALL WITHOUT A PENNEY TAX INCREASE

Exhibit B shows the breakdown on the proposed $10 million bond issue and the past sales tax and power plant bond issues. Of the total $10 million, $7,420,000 will be issued for utility improvements and purchase of a new generator and $2,580,000 will be held in reserve with the $2,570,000 authorized in the previous election for acquisition of new utility service areas.

EXHIBIT C

SCHEDULE "C"

CITY OF HOUMA, STATE OF LOUISIANA

FLOW OF FUNDS SCHEDULE FOR UTILITIES REVENUE BONDS ASSUMING ISSUANCE OF $7,420,000 OF BONDS SHOWN ON SCHEDULE "B"

PREPARED BY
COX, BAGOT & HUPPENBAUER
Bond Attorneys
And
BARNARD AND BURK, INC.
Consulting Engineers

Fiscal Year Ending Sept. 30th	Net Income Available for Debt Service	Earnings Required to pay bonds (See Schedule "B")	Reserve Fund Payments*	Capital Additions and Contingencies Fund Payments	Available to General Fund
1967	$1,729,100.00	$ 645,395.57	$ 60,000.00	$ 134,269.00	$ 889,435.43
1968	1,857,700.00	825,612.50	102,000.00	148,570.00	787,017.50
1969	1,950,400.00	915,337.50	102,000.00	149,475.00	783,587.50
1970	2,046,500.00	1,017,231.25	102,000.00	156,570.00	770,698.75
1971	2,142,600.00	1,047,700.00	102,000.00	163,690.00	829,210.00
1972	2,239,900.00	1,049,693.75	84,055.00	170,940.00	935,211.25
1973	2,331,600.00	1,051,187.50		177,870.00	1,102,542.50

9. **Louisiana Power and Light Co. is quick to point out that the city's increased debt service over a 10-year period will be $3,341,859 if it purchases the 26,000-kilowatt unit but fails to note THAT PROFITS FROM EXTRA CUSTOMERS THAT THIS UNIT COULD SERVE WOULD BE FAR GREATER.**

10. **The City of Houma is spending some $400,000 yearly to provide services to the East Houma area -- $36,000 of which is paid directly to Louisiana Power and Light for lighting streets, parks, etc. We are getting very little in return from residents of East Houma because they are not on the city's electrical utility system, which provides money for these services.**

11. **Passage of the city bond issue will allow the city to undertake its five-year program of improvements outlined in previous news releases and prevent Houma from losing its Class 4 fire rating. This will mean insurance premiums paid by Houma residents each year will be at least $230,000 less than if the city dropped to Class 6 fire rating, which is expected if the improvements are not made.**

For a greater Houma in years ahead ...

VOTE ✓ YES

TUESDAY
in the
City Utility
Bond Issue

9,6

Only registered property - owners of the city may vote. If you are one of them, please go to your regular voting precinct on Tuesday, October 24 and vote "Yes".

and Distribution System	4,320,000.00	
Unissued		$2,570,000.00
Total in Reserve Authority		$5,150,000.00

FINANCING PROGRAM

Bonds to be issued out of $10,000,000.00 Election		
Water Lines	$1,620,000.00	
26,000KW Generator	5,085,000.00	
Distribution System	715,000.00	
Total		$7,420,000.00
New Customers Required		**NONE**
Taxes Required		**NONE**
Rate Increase Planned		**NONE**
Taxpayer Cost		**NONE**
Financed with present income		$7,420,000.00

CUSTOMER ACQUISITION

Reserve Bond Authority Above	$5,150,000.00
To be issued	UNKNOWN
Financed out of profits from customers acquired	ALL ISSUED
Taxes Required	NONE

RESULTS

Some Lower Rates Will Result for Some Houma Citizens
Additional Revenue will go to the City General Fund
Continued Progress for The City of Houma
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Exhibit B shows the breakdown on the proposed $10 million bond issue and the past sales tax and power plant bond issues. Of the total $10 million, $7,420,000 will be issued for utility improvements and purchase of a new generator and $2,580,000 will be held in reserve with the $2,570,000 authorized in the previous election for acquisition of new utility service areas.

EXHIBIT C

SCHEDULE "C"

CITY OF HOUMA, STATE OF LOUISIANA

FLOW OF FUNDS SCHEDULE FOR UTILITIES REVENUE BONDS ASSUMING
ISSUANCE OF $7,420,000 OF BONDS SHOWN ON SCHEDULE "B"

PREPARED BY
COX, BAGOT & HUPPENBAUER
Bond Attorneys
And
BARNARD AND BURK, INC.
Consulting Engineers

Fiscal Year Ending Sept. 30th	Net Income Available for Debt Service	Earnings Required to pay bonds (See Schedule "B")	Reserve Fund Payments*	Capital Additions and Contingencies Fund Payments	Available to General Fund
1967	$1,729,100.00	$ 645,395.57	$ 60,000.00	$ 134,265.00	$ 839,435.43
1968	1,857,700.00	825,612.50	102,000.00	148,570.00	781,017.50
1969	1,950,400.00	915,337.50	102,000.00	149,475.00	783,587.50
1970	2,046,500.00	1,017,231.25	102,000.00	156,570.00	770,698.75
1971	2,142,600.00	1,047,700.00	102,000.00	183,690.00	809,210.00
1972	2,239,980.00	1,049,693.75	84,055.00	170,940.00	935,211.25
1973	2,331,600.00	1,051,187.50		177,870.00	1,102,542.50

Figure Increases

SCHEDULE "B"

CITY OF HOUMA, STATE OF LOUISIANA

SCHEDULE OF OUTSTANDING AND PROPOSED DEBT AND NET PAYMENTS FROM UTILITIES REVENUES

Bond Year Ending April 1st	Debt Service on Outstanding Bonds	$7,420,000.00 of Proposed Utilities Revenue Bonds, Dated 4/1/68 Interest at 4.27% Prin. 4/1	Int. 10/1 & 4/1	Total	Total Debt Service on Outstanding and Proposed Bonds	Payments Required for Fiscal Year Ending 9/30	Earnings on Investment of Bond Proceeds	Net Payments from Utilities Revenue for Fiscal Year Ending 9/30
1967	$ 603,791.14				$ 607,791.14	$ 645,395.57		$ 645,395.57
1968	683,000.00				683,000.00	827,487.50		825,612.50
1969	690,975.00		$ 371,000.00*	$ 371,000.00	1,061,975.00	1,060,587.50	$ 46,075.00	915,337.50
1970	688,200.00		371,000.00*	371,000.00	1,059,200.00	1,058,231.25	145,250.00	1,017,231.25
1971	784,912.50	$ 5,000	315,350.00	320,350.00	1,045,262.50	1,047,700.00	33,000.00	1,067,700.00
1972	730,000.00	5,000	315,137.50	320,137.50	1,050,137.50	1,049,693.75		1,049,693.75
1973	729,325.00	5,000	314,925.00	319,925.00	1,049,250.00	1,051,187.50		1,051,187.50

Continuous Average

Exhibit C shows that revenue from the city's utility system will be more than ample to retire all utility bonds after the proposed $7,420,000 of bonds are issued for improvement to the city's utility system (compare column 3 with column 2 in Schedule "C"). These figures are based on expected growth in the city's present utility coverage area.

Mr. and Mrs. Houma:



This is your city. You have one of the lowest tax rates in the nation. Fire insurance on your home is also at a low rate.

Electrical and water rates in areas supplied by your city are as low as any. And yet they provide enough profits to support half of the general services of your city, such as police and fire protection and garbage collections.

You mayor and board of aldermen have proposed a bond issue that will help keep it that way and provide more revenues for city services in our growing city.

The only utility company opposing this bond issue is Louisiana Power and Light Co. LESS THAN 3% of the ownership of this corporation lives in Louisiana, Mississippi and Arkansas - - the area it serves.

Do you think they're interested in YOUR city?

Vote for a strong city utility system and a greater Houma in the years ahead!

VOTE **YES** TODAY (TUESDAY) IN THE

City Utility Revenue Bond Issue Election



This is your city. You have one of the lowest tax rates in the nation. Fire insurance on your home is also at a low rate.

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City Utility Revenue Bond Issue Election

U. S. District Court
Eastern District of Louisiana
Filed Mar 28 1968
A. Dallam O'Brien, Jr.
Clerk
B

[91] UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

CIVIL ACTION

No. 67-1853

SECTION "C"

JOSEPH Q. CIPRIANO

VS.

CITY OF HOUMA,
G. LESLIE BROUSSARD, Mayor,
CHRISTIAN L. OLIVIER, CHARLES DAVIDSON,
PETER BOURGEOIS, JR., SAMUEL LUSCO and
WILBERT P. BONVILLIAN

MOTION TO INTERVENE AS A DEFENDANT

Now into court comes the State of Louisiana through its Governor, John J. MeKeithen, represented by Jack P. F. Gremillion, Attorney General for the State of Louisiana and otherundersigned counsel, who move the court for an order permitting him to intervene in this cause, and to adopt the defense set forth by the City of Houma, and its individual officials, in their answer.

This cause attacks the constitutionality of certain statutes of the State of Louisiana and pursuant to 28 USC

2284, the Governor and Attorney General of the State of Louisiana are entitled to at least five days' notice of a hearing involving constitutionality of a state statute; however, this delay is hereby waived so that the cause may proceed as presently scheduled.

WHEREFORE, applicant for intervention prays that his application for intervention be allowed, and that after due proceedings held herein that there be judgment sustaining the validity of the state statutes and laws in question, rejecting the demand of the petitioner at his cost.

Respectfully submitted on behalf
of the State of Louisiana through
John J. McKeithen, its Governor,

by: /s/JACK P. F. GREMILLION
JACK P. F. GREMILLION
ATTORNEY GENERAL,
STATE OF LOUISIANA
P. O. Box 44005
Baton Rouge, Louisiana

/s/ WILLIAM V. REDMANN
WILLIAM V. REDMANN
EXECUTIVE COUNSEL
TO THE GOVERNOR
Baton Rouge, Louisiana

[92]

/s/ KENNETH C. DEJEAN
KENNETH C. DEJEAN
(Trial Attorney)
SPECIAL COUNSEL
TO THE ATTORNEY GENERAL
P. O. Box 44005
Baton Rouge, Louisiana
(Phone 389-6761)

CERTIFICATE

I hereby certify that prior to the filing of this motion a copy of said motion was served upon counsel for complainant by handing them a copy of said motion.

New Orleans, Louisiana
March 28, 1968

by: /s/ KENNETH C. DEJEAN
OF COUNSEL

U. S. District Court
Eastern District of Louisiana
Filed Mar 28 1968
A. Dallam O'Brien, Jr.
Clerk
B

[93] UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

CIVIL ACTION
No. 67-1853

JOSEPH Q. CIPRIANO,
Plaintiff

VS.

CITY OF HOUMA, ET AL,
Defendant

PETITION FOR PERMISSION TO FILE BRIEF AS AMICUS CURIAE

The petition of the Louisiana Municipal Association, a non-profit corporation consisting of and representing two hundred sixty-three (263) municipalities in the State

of Louisiana, herein represented by undersigned counsel, respectfully represents that:

I.

This litigation attacks the validity of proceedings with respect to the issuance of utility revenue bonds by the City of Houma, pursuant to the provisions of Article 14, Section 14 (a) of the Louisiana Constitution, and Louisiana Revised Statutes, Title 39, Section 508 and Title 33, Section 4258, respectively, it being contended that the plaintiff, a non-property taxpayer voter of the City of Houma, was deprived of certain constitutional rights by virtue of not being permitted to vote in said election under the constitutional and statutory provisions aforesaid.

II.

Any adverse decision on this important question of law would have far-reaching effect and would particularly affect the economy, full faith and credit, and the capability of municipalities to provide necessary public utility service for their inhabitants and to this extent, the Louisiana Municipal Association, as a representative of the Louisiana municipalities, has an interest in this litigation.

III.

For the reasons hereinabove set forth, the Louisiana Municipal Association should be permitted the opportunity to appear herein and file an appropriate brief before any final determination of the legal issue raised by these proceedings is rendered by this Honorable Court.

[94] IV.

Petitioner therefore desires to file a brief amicus curiae in support of the position of the City of Houma,

defendant in these proceedings, and on behalf of the Louisiana municipalities which will be affected by any decision rendered herein.

WHEREFORE, petitioner prays that it be permitted to file this petition herein and to thereafter file a brief as amicus curiae in support of the position of the City of Houma, defendant in these proceedings, and to have such time to file such brief amicus curiae as may be allowed other parties to these proceedings within which to file briefs in support of their respective positions.

Petitioner further prays for all orders and decrees necessary in the premises and for all general and equitable relief.

Respectfully submitted:

By Attorney:

/s/ R. GORDEN KEAN, JR.
R. Gordon Kean, Jr., of
Sanders, Miller, Downing & Kean
Post Office Box 1588
Baton Rouge, Louisiana 70821

CERTIFICATE

I, undersigned counsel for petitioner, Louisiana Municipal Association, do hereby certify that a copy of the foregoing petition has been served on all counsel in this matter by handing same to them this date.

New Orleans, Louisiana, this 28th day of March, 1968.

/s/ R. GORDON KEAN, JR.
R. Gordon Kean, Jr.

[95] ORDER

IT IS ORDERED by the Court that petitioner, Louisiana Municipal Association, be permitted to file a brief

amicus curiae in this matter in support of the position of the City of Houma, defendant herein, and that said brief be filed within the time allowed counsel for other parties of record to file briefs herein.

New Orleans, Louisiana, this ..... day of March, 1968.

DISTRICT JUDGE

DISTRICT JUDGE

JUDGE
Court of Appeals, Fifth Circuit

Apr 8 1968

[96] MINUTE ENTRY:
MARCH 28, 1968
WISDOM, J.
RUBIN, J.
COMISKEY, J.

JOSEPH Q. CIPRIANO

versus

CITY OF HOUMA, et al

SECTION "C"

No. 67-1853

CIVIL ACTION

This cause came on this day for trial without intervention by jury.

PRESENT: Kenneth T. Watkins, Esq.
Louis Watkins, Jr., Esq.
James C. Walker, Jr., Esq.
Attorneys for Plaintiff

Kenneth DeJean, Esq.
R. Gordon Kean, Esq.
E. E. Huppenbauer, Jr., Esq.
Ted J. Borowski, Esq.
Attorneys for Defendants

All present and ready.

Mr. Kean files petition for permission to file brief as Amicus Curiae.

Mr. DeJean files motion to intervene as a Defendant.

The following witness called on behalf of plaintiff to testify:

Joseph Q. Cipriano, Sworn by Deputy Clerk.

The above witness called under cross-examination by the Defendant.

Argument.

Rebuttal.

Counsel for plaintiff is given ten days in which to file supplemental briefs and Counsel for defendants are given five days thereafter in which to file reply briefs.

SUBMITTED.

[97-98]

Filed
U. S. District Court
Eastern District of La.
Apr 19, 4:15 PM '68
A. Dallam O'Brien, Jr.
Clerk
B

Apr 24 1968
4/27/68 H

[99] UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

CIVIL ACTION
No. 67-1853
SECTION "C"

JOSEPH Q. CIPRIANO
Plaintiff

VS.

CITY OF HOUMA, ET AL.
Defendant

PETITION FOR PERMISSION TO FILE BRIEF AS AMICUS CURIAE

The petition of the Louisiana Security Dealers Association, Inc., a non-profit corporation, which represents, and whose membership includes, fifteen (15) Louisiana Securities Dealers, represented herein by undersigned counsel, respectfully represents that:

I.

The Plaintiff in this matter seeks to have this Honorable Court declare certain Louisiana Statutes relating to

the authorization, issuance and sale of utility revenue bonds to be unconstitutional under the provisions of the United States Constitution.

II.

A decision of this Honorable Court adverse to the Defendants in this matter would have serious detrimental effects upon the marketability of and demand for utility revenue bonds, both outstanding and proposed, of the various municipalities and other political subdivisions of the State of Louisiana.

III.

On the basis of the factors set forth hereinabove, the Louisiana Security Dealers Association, Inc., does hereby request that it be permitted by this Honorable Court to file a brief amicus curiae in support of the Defendants herein, and on behalf of the Louisiana Security Dealers who will be directly affected by decision of this Court in this matter.

WHEREFORE, Petitioner prays that it be permitted to file this petition in this matter and to file a brief as amicus curiae herein.

[100] Petitioner further prays for all orders and decrees necessary in the premises and for all general and equitable relief.

Respectfully submitted,

/s/ KENNETH W. FORD
Kenneth W. Ford
Foley, Judell & Morel
Suite 2313, 225 Baronne Street
New Orleans, Louisiana 70112
Telephone 524-8788
Attorneys for Petitioner,
Louisiana Security Dealers
Association, Inc.

Considering the foregoing, it is ordered that/the Louisiana Security Dealers Association, Inc. be permitted to file a brief as Amicus Curiae herein, provided such brief is filed not later than May 1, 1968.

New Orleans, Louisiana, this 22nd day of April, 1968.

/s/ ALVIN B. RUBIN
JUDGE

E. E. Huppenbauer √
Ted J. Borowski √
Jack P. T. Gremillion √
Kenneth T. Watkins √

[101] CERTIFICATE

I do hereby certify that a copy of the above and foregoing brief amicus curiae has been served upon all counsel of record by mailing same to each of them at their respective offices on the 19th day of April, 1968, postage prepaid.

New Orleans, Louisiana, this 19th day of April, 1968.

/s/ KENNETH W. FORD
Kenneth W. Ford
Foley, Judell & Morel
Attorneys for Louisiana Security
Dealers Association, Inc.
Suite 2313, 225 Baronne Street
New Orleans, Louisiana, 70112
Telephone 524-8788

Filed
U. S. District Court
Eastern District of La.
Jul 15, 4:38 P.M. '68
A. Dallam O'Brien, Jr.
Clerk
B

Jul 16 1968
7/16/68 H

[102] UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

CIVIL ACTION

No. 67-1853

SECTION "C"

JOSEPH Q. CIPRIANO

Plaintiff

versus

CITY OF HOUMA,
G. LESLIE BROUSSARD, Mayor,
CHRISTIAN L. OLIVIER, CHARLES DAVIDSON,
PETER BOURGEOIS, JR., SAMUEL LUSCO and
WILBERT P. BONVILLIAN

Defendants

Kenneth T. Watkins, Esq.
Louis Watkins, Jr., Esq.
James C. Walker, Jr., Esq.
Attorneys for Plaintiff
Kenneth C. De Jean, Esq.
Special Counsel to Attorney General, Intervenor.
R. Gordon Kean, Jr., Esq.
Attorney for Louisiana Municipal Association,
Amicus Curiae.
E. E. Huppenbauer, Jr., Esq.
Ted J. Borowski, Esq.
Attorneys for Defendants

Before JOHN MINOR WISDOM, Circuit Judge, and ALVIN B. RUBIN and JAMES A. COMISKEY, District Judges.

ALVIN B. RUBIN, District Judge:

A resident of the City of Houma, Louisiana, has brought a class action seeking an injunction to prevent the City from issuing utility revenue bonds approved by a vote of the property taxpayers at a special election. In addition, he seeks a judgment declaring that the provisions of Louisiana law under which the election was held violate the federal constitution. The plaintiff is a qualified voter, but not a property owner. He contends that he and the other members of the class of resident voters who do not own property in Houma have a proprietary interest in the municipal utility properties and that, since the Louisiana constitution and statutes permit only qualified resident voters who are property owners to participate in the election, they have been denied due process and equal protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States.

[103] The Louisiana constitution imposes limitations on the amount of debt a municipality may incur.[1] But in Louisiana, as in other states, these limitations apply only to debt that constitutes a general obligation of the municipality; debt that is a charge only on a special fund is not subject to the limitation.[2] Article XIV, Section M, of the Louisiana Constitution is typical of the provisions relative to such special funds: it provides that the legislature may authorize municipal corporations to issue bonds for the purpose of constructing, acquiring, extending, or improving any revenue producing public utility if the bonds are secured exclusively by a mortgage on the assets of the utility system and a pledge of its revenues, but that these

bonds may not be a charge on the other public income and revenues of the municipality.[3]

Acting under this authority, the Louisiana legislature empowered municipal corporations to issue public utility revenue bonds for the purposes permitted by the constitutional provision.[4] The bonds must be authorized by a resolution of the municipal governing body.[5] As the Louisiana constitution requires, they must be payable solely from the revenues of operating the utility system, and they may not constitute an indebtedness or pledge of the general credit of the municipality.[6] Before the resolution authorizing the issuance of bonds may be adopted by the governing body, the question whether the bonds should be issued must be submitted to and approved by the votes of a majority in number and amount of the property taxpayers.[7]

The procedure contemplated by the Louisiana statutes was followed by the City of Houma. The Mayor and Board of Aldermen, the duly elected municipal governing body, adopted a resolution calling a special election. The election was held, and the bond issue was approved. The City applied to the State Bond and Tax Board for consent and authority to issue and sell the bonds.[8] Before they can be sold, it will be necessary for the municipal governing body to adopt a resolution for the issuance and sale of the bonds.[9]

[104] While the plaintiff contends he was denied due process of law, he does not seriously press the claim. His real complaint is denial of equal protection of the laws, and he relies entirely upon Harper v. Virginia State Board of Elections, 1966, 383 U.S. 663. In *Harper* the United States Supreme Court held that the Equal Protection Clause of the Fourteenth Amendment prevents a state from exacting a poll tax as a condition of the right to vote in state elections. Mr. Justice Douglas reasoned that, "[O]nce the

franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment." Id. at 665. A state "violates the Equal Protection Clause of the Fourteenth Amendment whenever it makes the affluence if the voter or payment of any fee an electoral standard." Id. at 666.

But this sweeping proposition is not decisive here. The Equal Protection Clause does not command state legislatures to make their laws conform to hydraulic principles by seeking the common—and lowest—level. "Equal protection does not require identity of treatment. It only requires that classification rest on real and not feigned differences, that the distinction have some relevance to the purpose for which the classification is made, and that the different treatments be not so disparate, relative to the difference in classification, as to be wholly arbitrary." Walters v. City of St. Louis, 1954, 347 U.S. 231, 237. In considering whether a classification rests on a real difference, we must take into account the nature and the relative importance of the subject with respect to which equality is asserted. "Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." Reynolds v. Sims, 1964, 377 U.S. 533, 561-562.

But "the Equal Protection Clause is not shackled to the political theory of a particular era."[10] not even the one [105] in vogue at present. It does not forbid the states to fix voter qualifications; it only, as *Harper* puts it, prevents them "from fixing voter qualifications which invidiously discriminate."[11] For "[t]here can be no doubt either of the historic function of the States to establish, on a non-

discriminatory basis, and in accordance with the Constitution, other qualifications [than residence] for the exercise of the franchise."[12] *Harper* holds merely that equal protection is denied when a state levies a poll tax. It does not declare that the Fourteenth Amendment abrogates the power of the states to classify voters.

Mere classification does not of itself deprive a group of equal protection.[13] Older decisions taught us that legislation that differentiates between two classes is unconstitutional only if the discrimination is irrational, arbitrary or capricious.[14] Only a few weeks ago, the Supreme Court indicated that these principles are still vital. In holding that the one man, one vote principal of *Reynolds v. Sims* was applicable to the selection of Texas County Commissioners it said, "The Equal Protection Clause does not, of course, require that the State never distinguish between citizens, but only that the distinctions that are made not be arbitrary or inviduous." Avery v. Midland County Texas, 36 U.S.L.W. 4257 (U.S. April 1, 1968), ... U.S. .....[15]

Unlike the poll tax rejected in *Harper*, the Louisiana statute attacked here does not limit suffrage in an election held to vote for political representatives or general governmental purposes. It deals solely with a vote on the issuance of municipal revenue bonds. The test to be applied is whether the distinction drawn between resident voters who are property owners and resident voters who do not own property is so arbitrary or invidious as to deny equal protection of the laws to the resident who does not own property. This can not be settled by resort to generalizations that would apply the same criteria to every ballot on every subject just because it is a ballot. Whether the distinction is invidious depends on the exact factual situation presented.

[106] Before a utility revenue bond can be issued under the Louisiana constitutional and statutory plan, the prop-

erty owners election must be authorized by an elected governmental body. The plaintiff has full suffrage in the election of this municipal governing body, as well as in the election of the Louisiana legislature. The property owners election called by the municipal governing body can only approve or disapprove the issuance of bonds. If it disapproves, its veto is decisive. But even if it approves, the municipal governing body has the final decision on whether the bonds should be issued.[16]

The election to approve the issuance of the bonds is not an election for general governmental purposes. It concerns the administrative functions of the municipality. This type of distinction has been considered important in determining what is required to afford equal protection to voters. See Sailors v. Board of Education of County of Kent, 1967, 387 U.S. 105.

The question here is not whether all voters resident in a municipality are equally qualified to vote on the issuance of utility bonds, nor whether they are all equally concerned with municipal utility services, nor whether they pay utility bills just like property owners, nor whether the people of Louisiana in adopting their Constitution or the legislature of Louisiana in enacting its statutes have acted wisely in determining that only property owners can veto the issuance of revenue bonds. It is whether Louisiana's plan of governmental action is arbitrary or invidious with respect to the resident voter who owns no property. In deciding how they would authorize revenue bonds to be issued, Louisianians might have supposed, perhaps erroneously but without being irrational, that property owners by and large have a greater and more permanent economic stake in the community than non-property owners; that the values of property might be more directly affected by the quality and cost of utility service; that the success of a

municipal utility system might yield funds for general municipal operation, relieving property owners of some of the burden otherwise borne by ad valorem taxes, while the [107] failure of such a system might impair the credit of the municipality even though the bondholders have no claim to its funds. They might have recalled that in many cases the cost of installing utility services have been directly borne by subdividers of property.[17] They might have thought that property owners could better take into account such questions involved in utility operation as valuation of property, acquisition of rights of way, and durability of construction. In all of these matters, their conclusion might be different from the ones we ourselves would reach, and the conclusion might be one that cannot be scientifically established or proved by a preponderance of the evidence. But the question is not whether they are right, but merely whether they are so wrong as to be irrational.

As *Sailors* recognized, "Viable local governments may need many innovations, numerous combinations of old and new devices, great flexibility in municipal arrangements to meet changing urban conditions. We see nothing in the Constitution to prevent experimentation." 387 U.S. at 110-111.

There is no one light to kindle in state and municipal fiscal matters. Indeed, beset as state and local governments are by financial problems,[18] it may be that the gloom is impenentrable. But the legislatures of some states think that giving property owners the right to veto the issuance of revenue bonds serves as a wise fiscal restraint.[19] We cannot say that this conclusion is based on a distinction betweeen those who own property and those who do not that is irrational, arbitrary or invidious. Those who, like the plaintiff, consider the Louisiana legislative provisions

unwise have their general franchise unimpaired; they may seek to elect representatives who will vote for what they consider a better method of authorizing the issuance of revenue bonds.

In Kramer v. Union Free School District No. 15, 2 Cir., 1967, 379 F.2d 491, Judges Kaufman and Hays held that a three-judge court should be convened to hear a case in which a bachelor who was not a property owner contended that he was deprived of equal protection by a New York statute that permitted only property owners, parents [108] of students or persons who stood in loco parentis to students to vote in school board elections. Judge Lumbard considered the claim "so patently without any merit" that he dissented. In doing so he observed:

> ". . . [T]he franchise in local elections concerning, for example, water supply, sanitation removal, fire protection, and the operation of parks and schools is very commonly limited to those who use and/or pay for the services. And such limitations have a readily apparent and rational basis, the greater concern and awareness of those who use and pay for such services, for which there is no analogue when voting in a statewide legislative election is conditioned upon payment of a poll tax." 379 F.2d at 497 (footnote omitted).

And he commented further,

> "[T]he salient vice of a restriction upon voting in statewide elections is that it tends to perpetuate itself by denying those it disadvantages any opportunity to remove it through democratic processes. See The Supreme Court, 1965 Term, 80 Harv.L.Rev. 91, 180 n. 23 (1966). By contrast, plaintiff can seek to have his exclusion from the school district franchise repealed by the New York legislature, for which his vote is unimpaired." *Ibid.*

Even when considering whether a state statute prohibiting the sale of obscene publications to juveniles im-

pairs the right to free speech, the test of validity is not whether judges agree with state legislatures or whether the legislative findings express "an accepted scientific fact." For "[t]o sustain state power to exclude material defined as obscenity . . . requires only that we be able to say that it was not irrational for the legislature to find that exposure to material condemned by the statute is harmful to minors." Ginsberg v. New York, 36 U.S.L.W. 4295 (U.S. April 22, 1968), ... U.S. ...... "We do not demand of legislatures a 'scientifically certain criteria of legislation.' " *Ibid.*

If the federal system is to continue, the states must be free, within the limits of rationality, to adopt their own solutions to their own problems, to experiment even if their experiments sometimes fail. The courts are not a collective omniscent father who always knows best. The Constitution ordains a rule of reason, not a strait jacket of egalitarianism. It must allow that latitude that is essential to the [109] experimentation, development and change needed by a nation composed of fifty different states and thousands of state-created political subdivisions. The measures adopted by Louisiana to meet its own notions of how its people should determine the desirability of issuing public utility revenue bonds are neither so arbitrary or irrational as to bring down the stricture of the Fourteenth Amendment. Judgment will therefore be entered for the defendant.

UNITED STATES CIRCUIT JUDGE

/s/ ALVIN B. RUBIN
UNITED STATES DISTRICT JUDGE

/s/ JAMES A. COMISKEY
UNITED STATES DISTRICT JUDGE

New Orleans, Louisiana.
July 15th, 1968.

[1] LSA-Const. Art. 14, § 14(f).

[2] The provisions limiting municipal indebtedness had their origin in the latter half of the 19th Century. Seeking to attract railroads, communities issued bonds and bought railroad stock with the proceeds. The depression of the 1870's rendered most of the stock worthless. Corrupt municipal administration also resulted in indiscriminate issuance of bonds to cover the cost of projects of questionable value. See generally in this regard, De Torres, Financing Local Government 26-27 (1967). See also Fowler, Revenue Bonds 46 (1938); Lutz, Public Finance 594 (1924); McDonald, American City Government and Administration 406 et seq. (1955).

[3] Article XIV, Section 14(m) provides expressly that bonds of this nature "shall not be included in computing the indebtedness of the municipality for the purpose of any limitation herein."

[4] LSA-R.S. 33:4251.

[5] LSA-R.S. 33:4252.

[6] *Ibid.*

[7] LSA-R.S. 33:4258. The election is also contemplated by the Louisiana constitution, Art. XIV, § 14(m), which provides, "The Legislature may, in its discretion, require an election by the taxpaying voters of the subdivision or district as a condition precedent to the issuance of such bonds. . . ."

[8] LSA-R.S. 39:871; 47:1803-1804.

[9] LSA-R.S. 33:4252; see LSA-R.S. 33:4258.

[110] [10] Harper v. Virginia State Board of Elections, 1966, 383 U.S. 663, 669.

[11] *Id.* at 666.

[12] Carrington v. Rash, 1965, 380 U.S. 89, 91.

[13] Williamson v. Lee Optical of Oklahoma, 1955, 348 U.S. 483; Carrington v. Rash, 1965, 380 U.S. 89.

[14] Bayside Fish Flour Co. v. Gentry, 1936, 297 U.S. 422, 429; Arkansas Natural Gas Co. v. Arkansas R.R. Comm., 1923, 261 U.S. 379, 384; Cox, Constitutional Adjudication and the Promotion of Human Rights, 80 Harv.L.Rev. 91, 94-95 (1966).

[15] See also Dusch v. Davis, 1967, 387 U.S. 112.

[16] See, e.g., The Wall Street Journal, vol. XLI, no. 101 (Wednesday, May 22, 1968), p. 21, cols. 1 & 2.

[17] E.g., Code of Ordinances, Jefferson Parish, Louisiana, § 18-11.

[18] See, e.g., The State of the States: Troubled, *Newsweek* (January 31, 1966), pp. 19-20.

[19] See, e.g., Texas Const., Art. VI, § 3a; City of Richmond v. Allred, Tex., 1934, 71 S.W.2d 233; Utah Const., Art. XIV, § 3.

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[111] (TITLE OMITTED IN PRINTING)

WISDOM, dissenting.

I respectfully dissent.

I consider that Harper v. Virginia State Board of

Elections, 1966, 383 U.S. 663, 86 S.Ct. 1079, 16 L.Ed.2d 169, controls the case before this court.

In *Harper* the Supreme Court found that "voter qualifications have no relation to wealth nor to paying or not paying this [poll tax] or any other tax". 383 U.S. 666. It is true that the tax itself was attacked in *Harper* and that a poll tax is a qualification limiting suffrage in an election to vote for political representatives. Here the qualification limiting voting to resident property taxpayers applies to a vote on the issuance of municipal revenue bonds. I recognize the differences in the two situations. But the basic similarity is more important than the differences. The common fact in both situations is that eligibility to vote rests on payment of a tax. But all citizens have a stake in government—federal, state, or local government—regardless of ownership of property as evidenced by payment of a tax. This interest entitles each citizen to a voice in all elections in his city or state. As the Court said in *Harper*, "Wealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process. Lines drawn on the basis of wealth or property, like those of race . . . are traditionally disfavored". 383 U.S. at 666. [112] Here, in a bond election, a citizen's lack of ownership of taxed real estate is not proof positive of his lack of interest in his city's going into the utility business.

As my brother Rubin ably analyzes the issues, the case is not one to be settled by broad generalities. The issues reduce to the question whether the distinction between property owners and non-property owners is rational or arbitrary in fixing the qualifications for voting on the desirability of a city's issuing revenue bonds to acquire and operate a public utility. The city has the legal authority to issue such bonds, even without asking the advice of any of its electors, but if a city should in advance of issu-

ance of revenue bonds ask for the approval of its citizens the equal protection clause prohibits the city's arbitrarily excluding from the election interested citizens.

Houma has a population of 35,000. As of October 24, 1967, there were 11,606 registered voters. Only 4,680 were taxpayers owning property and the total assessed value of their property was only $5,988.627. Thus forty per cent of the resident voters owning taxed property constitued a class controlling the interests of *all* the citizens of Houma in the policy decision submitted to the voters in the bond election. 1,828 voters representing an assessed valuation of $2,736,258 voted in favor of issuance of the bonds; 896 representing an assessed valuation of $1,108,268 voted against the bond issue.

As citizens of Houma, non-property residents have the same proprietary interest in municipal properties as resident taxpayers. They have the same interest in the administration of city affairs. And they are no less interested in the amount of their light bills than are property-owners. Indeed, since they constitute sixty percent of Houma's [113] electors, they have a greater aggregate of interests than the property owners have in municipally owned utilities.

In the case before us, the discrimination against citizens not owning taxed property is exacerbated by the fact that the bonds are revenue bonds. The bonds are to be paid only from the operations of the utility; they are not a charge upon other income and revenues of the municipality and are not included in computing the indebtedness of the municipality for the purposes of any constitutional or statutory debt limitation. If the operations should be unprofitable, the property-owner will have no greater burden than anyone else. If the operations should be profitable, the

profits go into the General Fund of the City of Houma and, presumably, will aid all the citizens in providing police protection, fire protection, and other city services.

There is a wide difference of opinion between the plaintiffs and the defendants as to whether the effect of Houma's ownership of utilities will be an increase or decrease in light and gas bills. But certainly everyone in Houma who flicks on an electric light or whose wife turns on the gas in the kitchen has a genuine interest in the question—whether he is a landlord or tenant. The tenant should be able to protect that interest by a declaration in the form of a vote—if the proposition is put to his landlord. In one way or another, the tenant pays the bill.

There may have been a time when ownership of property as a voter's qualification could have been defended as part of the American system of checks and balances. The vote of the property-owners could be looked to as a restraint on governmental operations financed by taxes. The framers of the United States Constitution did not adopt this limitation on federal sufferage, but a number of the [114] states did limit the vote to freeholders. Now, however, we are living in an age when there are utility taxes, sales taxes, cigarette taxes, gasoline taxes, income taxes, and a host of taxes, notions of which never crossed the minds of the Founding Fathers. It is a mistake therefore to put all property taxpayers in a class with veto power over governmental revenue bonds issues, as if other classes of citizens pay no taxes to their city or state and have no legitimate interest in governmental operations.

The defendant's argument that property owners have a special interest is enough in itself to destroy the rationality of the classification in a revenue bond election. In such an election, the vote is limited to persons whose prop-

erty taxes will, by statute, not be increased if the revenues fall short of expectaations. If the General Fund of the City should suffer, the greater share of the burden will fall on the excluded class of non-property owners, that is, sixty per cent of the resident voters. In final analysis, the requirement of property ownership invites the property owners, forty per cent of the voters, to vote themselves lower ad valorem rates or the continuance of existing rates while shifting the greater burden of carrying the City's General Fund to the other sixty per cent of the resident voters.

I would hold that the distinction between property owners and non-property owners in an election to vote on the issuance of municipal revenue bonds is so arbitrary as to deny equal protection of the laws to be excluded non-property owning residents of Houma. Accordingly, I would grant the injunction and the requested declaratory judgment. Such a holding need not affect adversely bonds now outstanding. To protect the vested interests of cities and [115] bondholders in bonds already issued, I would apply the decision—as I see it—prospectively only.

Filed
U. S. District Court
Eastern District of La.
Jul 23, 10:45 AM '68
A. Dallam O'Brien, Jr.
Clerk
B

8-5-68
Jul 25 1968

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[116] UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

SECTION "C"

No. 67-1853

CIVIL ACTION

JOSEPH Q. CIPRIANO

versus

CITY OF HOUMA,
G. LESLIE BROUSSARD, Mayor,
CHRISTIAN L. OLIVIER, CHARLES DAVIDSON,
PETER BOURGEOIS, JR., SAMUEL LUSCO and
WILBERT P. BONVILLIAN

JUDGMENT

Considering the written opinion of the Court on file herein, the dissenting opinion of Judge Wisdom, and considering the direction of the Court as to entry of judgment;

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment in favor of defendants, City of

Houma, G. Leslie Broussard, Mayor, Christian L. Olivier, Charles Davidson, Peter Bourgeois, Jr., Samuel Lusco and Wilbert P. Bonvillian, and against plaintiff, Joseph Q. Cipriano, dismissing said plaintiff's suit with costs.

New Orleans, Louisiana, this 23 day of July, 1968.

/s/ JOHN MINOR WISDOM
UNITED STATES CIRCUIT JUDGE

/s/ ALVIN B. RUBIN
UNITED STATES DISTRICT JUDGE

/s/ JAMES A. COMISKEY
UNITED STATES DISTRICT JUDGE

√ Kenneth T. Watkins, Esq.
Louis Watkins, Esq.
James C. Walker, Jr., Esq. } 415 Goode St., Houma
√ Kenneth C. DeJean, Esq.—Special Counsel to Atty. Gen'l. P. O. Box 44005, B. R., La.
√ R. Gordon Kean, Jr., Esq.—P. O. Box 1588, B. R., La.
√ E. E. Huppenbauer, Jr., Esq.
√ Ted J. Borowski, Esq.
√ Kenneth Ford
Suite 2313 225 Baronne

Filed
U. S. District Court
Eastern District of La.
Sep 6, 5:47 PM '68
A. Dallam O'Brien, Jr.
Clerk
B

[117] UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

SECTION "C"

No. 67-1853

CIVIL ACTION

JOSEPH Q. CIPRIANO

VERSUS

CITY OF HOUMA,
G. LESLIE BROUSSARD, Mayor,
CHRISTIAN L. OLIVIER, CHARLES DAVIDSON,
PETER BOURGEOIS, JR., SAMUEL LUSCO and
WILBERT P. BONVILLIAN

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Joseph Q. Cipriano, the appellant above named, hereby appeals to the Supreme Court of the United States from the final judgment dismissing the complaint entered in this action on July 25, 1968.

This appeal is taken pursuant to 28 U.S.C. Section 1253.

WATKINS, WATKINS & WALKER
415 Goode Street
Houma, Louisiana
Attorneys for Plaintiff-Appellant
BY: /s/ KENNETH WATKINS
KENNETH WATKINS

[118] (TITLE OMITTED IN PRINITNG)
PROOF OF SERVICE—AFFIDAVIT

I, KENNETH WATKINS, attorney and partner in the law firm of Watkins, Watkins & Walker, attorneys of record for Joseph Q. Cipriano, Appellant herein, depose and say that on the 6th day of September, 1968, I served a copy of the foregoing Notice of Appeal to the Supreme Court of the United States, on the City of Houma, G. Leslie Broussard, Mayor, Christian L. Olivier, Charles Davidson, Peter Bourgeois, Jr., Samuel Lusco and Wilbert P. Bonvillian, on the State of Louisiana, through the Honorable Jack P. F. Gremillion, Attorney General, The Municipal Association, and the Louisiana Security Dealers Association, Inc., Amicus Curiae, by mailing a copy in duly addressed envelopes, with first class postage prepaid, to their respective attorneys of record, as follows:

[119] 9/30/68

TO: Ted J. Borowski, Esq.
Borowski & McMahon
Attorneys at Law
Landry Building
Houma, Louisiana 70360
and
E. E. Huppenbauer, Jr., Esq.
Cox, Bagot & Huppenbauer
Attorneys at Law
707 National Bank of Commerce Building
New Orleans, Louisiana 70112
Attorneys for City of Houma,
G. Leslie Broussard, Mayor,
Christian L. Olivier, Charles
Davidson, Peter Bourgeois, Jr.,
Samuel Lusco and Wilbert P.
Bonvillian

TO: Kenneth C. DeJean, Esq.
Special Counsel to the Attorney General,
Offices of the Attorney General of the

State of Louisiana
Capitol Building
Baton Rouge, Louisiana
Attorney for State of Louisiana

TO: R. Gordon Kean, Jr., Esq.
Sanders, Miller, Downing & Kean
Baton Rouge Savings & Loan Building
P. O. Box 1588
Baton Rouge, Louisiana 70821
Attorney for Louisiana Municipal Auditorium

TO: Kenneth W. Ford, Esq.
Foley, Judell & Morel
Suite 2313, 225 Baronne Street
New Orleans, Louisiana 70112
Attorney for Louisiana Security Dealers Association, Inc.

I further depose and state that the above named parties and Amicus Curiae constitute all parties of record and Amicus Curiae previously having made any appearance in these proceedings.

[120]

/s/ KENNETH WATKINS
KENNETH WATKINS

SUBSCRIBED AND SWORN TO before me,
at Houma, Terrebonne Parish, Louisiana
this 6th day of September, 1968.

/s/ J. C. WALKER, JR.
JAMES C. WALKER, JR.
NOTARY PUBLIC

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[121] (TITLE OMITTED IN PRINTING)

REQUEST TO CLERK TO CERTIFY AND TRANSMIT ENTIRE RECORD

To: The Honorable A. Dallam O'Brien
Clerk of the United States District Court
Eastern District of Louisiana

Pursuant to the provisions of Rule 12(1) of the Rules of the Supreme Court of the United States, you are requested to certify and transmit to the Supreme Court of

the United States the entire record of the proceedings herein.

WATKINS, WATKINS & WALKER
415 Goode Street
Houma, Louisiana
Attorneys for Plaintiff-Appellant
BY: /s/ KENNETH WATKINS
KENNETH WATKINS

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[122] (TITLE OMITTED IN PRINTING)
MOTION TO HAVE ORIGINAL RECORDS TRANSMITTED TO THE SUPREME COURT OF THE UNITED STATES

Plaintiff-appellant petitions the Court, pursuant to Rule 12, paragraph (3) of the Rules of the Supreme Court of the United States, to authorize and instruct the Clerk of the District Court to transmit as a part of the record upon appeal to be filed in the Supreme Court of the United States, the original of all documents, transcripts, exhibits, or other parts of the District Court records, of which there are no copies on file, upon the following grounds:

There are only originals of the transcript, exhibits, documents, newspaper clippings and other parts of the District Court records on file, which must be submitted to the Supreme Court. A great deal of expense and work would be required to prepare copies thereof for the transcript of record on appeal.

October 28, 1968.

WATKINS, WATKINS & WALKER
Kenneth Watkins
/s/ JAMES C. WALKER, JR.
Counsel for Plaintiff-Appellant
P. O. Box 1047
Houma, Louisiana
Telephone 872-3256
10-28-68

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[123] (TITLE OMITTED IN PRINTING)
ORDER THAT ORIGINAL RECORDS BE FORWARDED TO SUPREME COURT

Pursuant to the motion to transmit the original record on appeal of the above-entitled cause to the Supreme Court of the United States:

IT IS HEREBY ORDERED, that the documents and papers received in evidence in the District Court in the trial of this cause, and the stenographer's transcript of the proceedings held before the three-judge court on April 19, 1968, may all be forwarded, in lieu of copies of such documents and papers, to the Clerk of the Supreme Court of the United States as a part of the transcript of the record on the appeal herein.

October 28, 1968.

/s/ JOHN MINOR WISDOM
United States Circuit Judge

U. S. District Court
Eastern District of Louisiana
Filed Oct 30 1968
A. Dallam O'Brien, Jr.
Clerk
B

[125] IN THE

UNITED STATES DISTRICT COURT
FOR THE
NEW ORLEANS DIVISION

CIVIL ACTION

No. 67-1853

"C"

JOSEPH Q. CIPRIANO

VERSUS

CITY OF HOUMA,
G. LESLIE BROUSSARD, MAYOR,
CHRISTIAN L. OLIVIER, CHARLES DAVIDSON,
PETER BOURGEOIS, JR., SAMUEL LUSCO and
WILBERT P. BONVILLIAN

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

Kenneth Watkins,
Louis Watkins, Jr.
James C. Walker, Jr.
Attorneys for Appellant-Plaintiff
Ted J. Borowski
E. E. Huppenbauer, Jr.
Attorneys for Defendants
Kenneth C. DeJean
Special counsel to Attorney General, Intervenor
R. Gordon Kean, Jr.

Attorney for Louisiana Municipal Association, amicus curiae

(The above entitled and numbered cause came up for hearing on March 29, 1968, in the courtroom at 400 Royal Street, New Orleans, Louisiana, before the Honorable John Minor Wisdom, Fifth Judicial Circuit Judge, New Orleans, Louisiana and the Honorable Alvin B. Rubin, and the Honorable John A. Comiskey, District Judges, presiding.)

[126] PROCEEDINGS

March 29, 1968

JUDGE WISDOM:

The case fixed for today is Cipriano against the City of Houma.

Counsel ready?

MR. HUPPENBAUER:

Counsel is ready.

JUDGE WISDOM:

Have you given your name to the Reporter?

MR. HUPPENBAUER:

We have, sir.

JUDGE WISDOM:

Have you decided on your time? I see three attorneys standing.

MR. HUPPENBAUER:

Judge, I think we have a stand-in counsel for the Attorney General making an appearance solely for the purpose of waiving notice. Mr. Kean is special counsel for the Louisiana Municipal Association, I think he has a petition to ask the Court—

MR. KEAN:

Gordon Kean representing the Louisiana Municipal Association. Because I felt that this is a matter
[127] of interest to the association, I would like to request permission of the Court to file this petition authorizing the association to file an amicus curiae brief

in the matter in support of the position of the City of Houma as defendant.

JUDGE WISDOM:
Well, we want to decide this right now.

JUDGE COMISKEY:
No objection.

JUDGE RUBIN:
No objection.

JUDGE WISDOM:
The Court will allow you to file the petition and allow you to file briefs if they should be necessary.

MR. DeJEAN:
Kenneth C. DeJean, special counsel to the Attorney General of the State of Louisiana. I have a motion to intervene as a defendant. We are intervening and adopting the position of the City of Houma in the case and we are also waiving any requirement of notice. As I understand it, no notice was served on the Governor or upon the Attorney General, and we hereby waive that.

JUDGE WISDOM:
I suppose there is no objection from opposing counsel?

[128] MR. WATKINS:
No objection.

JUDGE WISDOM:
It's a motion or petition?

MR. DeJEAN:
It's a motion.

MR. WATKINS:
Kenneth Watkins, counsel for the petitioner in the case.

JUDGE WISDOM:
Mr. Watkins, how long would you require for your case?

MR. WATKINS:
About 10 minutes, your Honor.

JUDGE WISDOM:
You are talking about the witness?

MR. WATKINS:
No, our argument to the Court.

JUDGE WISDOM:
Very well.
What time do you require?

MR. HUPPENBAUER:
Your Honor, we have to take the testimony of Mr. Cipriano and cross-examination will probably take 10 to 15 minutes. Our argument will last no longer than 10 or 15 minutes.

JUDGE WISDOM:
[129] That's fine, the judges are glad to hear that the lawyers are so short-winded today.

MR. HUPPENBAUER:
I would like to file this supplemental motion to intervene.

JUDGE WISDOM:
Very well. Have you served opposing counsel with a copy?

MR. HUPPENBAUER:
Yes.

JUDGE WISDOM:
Mr. Watkins.

MR. WATKINS:
If the Court pleases, we previously decided to call no witnesses, but Mr. Huppenbauer and I spoke to Judge Rubin about calling the mayor for one point. Mr. Huppenbauer and I agreed to stipulate on these points which will obviate putting the mayor on.

JUDGE WISDOM:
We have a stipulation filed of record; is that right?

MR. HUPPENBAUER:
Yes, sir.

MR. WATKINS:
Yes.

[130] JUDGE WISDOM:
This is to cover a point not covered in the stipulation?

MR. WATKINS:
Elaborate on one point possibly not covered.

JUDGE WISDOM:
Very well. Mr. Huppenbauer, you will speak as counsel for the defendants?

MR. HUPPENBAUER:
Defendants, yes.

JUDGE WISDOM:
And Mr. Watkins is counsel for the plaintiff?

MR. WATKINS:
Yes.

JUDGE WISDOM:
You may proceed. Are there any further motions?

MR. WATKINS:
I would like to put this document and stipulation in the record, if I may, your Honor.

JUDGE WISDOM:
Yes.
Please go right ahead.

MR. WATKINS:
On behalf of the joint stipulation, I offer to introduce in evidence with Mr. Huppenbauer copies of pages representing legal advertisements run in the
[131] newspaper shopper's guide on November 18, 1967, two pages, and two advertisements and pages of the Houma Courier, October 13, 1967, and another page dated October 13, 1967, one dated October 17, 1967, October 20, 1967, and two of October 24, 1967, all of these pages containing legal advertisements run under

the direction and by the authority of the mayor of the City of Houma on behalf of the City of Houma with regard to the election which is the subject matter of this suit.

JUDGE WISDOM:
I assume there is no objection.

MR. HUPPENBAUER:
No objection.

JUDGE WISDOM:
Yet them be received.

MR. WATKINS:
Is it necessary I mark them?

JUDGE WISDOM:
No.

MR. WATKINS:
Very well, I will mark these, with the Court's permission, at a later time.

JUDGE WISDOM:
That's all right, we will take any motions that have been filed along with the case and you may pro-
[132] ceed now with your case.

MR. WATKINS:
Thank you, your Honor.
If your Honor pleases, to briefly summarize the—

MR. HUPPENBAUER:
May it please the Court, I believe it may be proper in line or order to take the testimony of the plaintiff, perhaps, before the argument.

JUDGE WISDOM:
I thought he was going to do that.

MR. HUPPENBAUER:
No, sir, we have called him under cross-examination.

JUDGE WISDOM:
I misunderstood, I thought since he represented the plaintiff he probably would put the plaintiff on,

but you are putting the plaintiff on. Very well then, call Mr. Cipriano to the stand.

JOSEPH Q. CIPRIANO,
called as a witness, after being duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. HUPPENBAUER:

Q Are you Joseph Q. Cipriano, a plaintiff in this proceeding, are you not, sir?

[133] A Yes, sir.

Q Where do you reside?

A 304 Foster Drive in the City of Houma.

Q For how long have you been a resident of the City of Houma?

A Since June 1, 1965.

Q Where are you employed, sir?

A Louisiana Power & Light Company.

Q What is your capacity with the Louisiana Power & Light Company?

A District Manager.

Q In this suit you have alleged that you have—you have been or you are being deprived of certain civil rights, will you explain to the Court what civil rights you are being deprived of, sir?

A I was deprived of the privilege of voting in an election which involved no taxes. The election of—this particular election deprived me of my rights to vote. Only property owners were allowed to vote, and this particular issue did not involve taxes which would be placed upon any property owners, it involved all of the residents of the City of Houma.

Q Now, you are speaking of the election held in the City of Houma on October 24, 1967, are you not?

[134] A That is correct.

Q You do not own any property within the limits of the City of Houma?

A That's correct.

Q Did you attempt to vote in the election?

A No, I did not. I did not because the announcement indicated that I could not, and all of the publications and other announcements in the area said that only property owners could vote.

Q Have you ever voted in any election in the City of Houma?

A Yes, sir, I have.

Q Did you vote in the election for the city officials at the last election held in the city?

A As I recall, I did.

Q You are a registered voter, are you not, sir?

A That is correct.

Q This election in the City of Houma was for a revenue bond issue, was it not, sir?

A This is what it was proclaimed to be, a $10,000.000 revenue bond issue.

Q And how do you feel you have been damaged by being deprived of the right to vote in the election?

A Well, particularly because of the fact by not being allowed to vote the property owners in essence will be [135] permitted to place additional financial burdens upon me. It—during the election and immediately prior, the city has indicated that it planned to take over the utilities there, and this would further tax me because I would have to pay more for my electric service to the City of Houma than I am presently paying to the utility that I am now being served by.

Q Who is furnishing you utilities now?

A Electric service, Louisiana Power & Light. The gas service by the City of Houma and indirectly I guess the City of Houma serves water because I am served by the Water Works District No. 1 and the city provides them water service.

Q Your water though is being serviced by the Water Works District?

A I am billed through the Water District.

Q And electric power by Louisiana Power & Light?

A Yes, and the gas service by the City of Houma.

Q And how do you know that the rates that you might pay if the city were operating your system would be higher than those you are paying now?

A Because I have had occasion to see the rates of both the City of Houma and those of Louisiana Power & Light Company and other utilities as well.

[136] Q What is the differential in so far as a resident unit such as yours?

A In my particular case it would probably involve some $70 or $80 annually.

Q Increase over and above?

A Increase over and above that which I am now paying.

Q Are there any rates levied by the City of Houma for utilities which are less than the Louisiana Power rate?

A Not to my knowledge.

Q Do you pay any ad valorem taxes whatsoever in the City of Houma?

A No, sir, this would be property tax.

Q Any other type of property tax?

A No, sir.

Q You seek in this action an injunction to enjoin the City from issuing bonds in furtherance of the authority granted at this election and you have alleged irreparable injury; what injury have you suffered, Mr. Cipriano?

A Well, I would suffer the injury of not having been allowed to vote and having others place additional financial burdens upon me.

Q Have these burdens been placed upon you at all at this time?

[137] A Not as yet, I am hopeful they will not.

Q Has the city taken over your system that is being serviced to you?

A No, sir, not as yet. They have gone on record as having been desirous of doing this.

Q If you feel you have been deprived of your right to vote, why did you wait 55 days after the election to seek the issuance of this injunction.

MR. WATKINS:

If your Honor please, I wish to object on behalf of the plaintiff, It's immaterial and irrelevant in as much as the statute authorizes 60 days, and as long as the man is waiting within the period prescribed by law, it's irrelevant how long he waits.

JUDGE WISDOM:

We will allow the witness to answer.

THE WITNESS:

I was hopeful actually, that the—this particular bond issue would be defeated.

BY MR. HUPPENBAUER:

Q Why then did you wait 55 days?

A What's that, sir.

Q Why then did you wait 55 days to institute this action?

A I would think there was no particular reason in discussing it with Mr. Watkins this time element came [138] about as a matter of my consultation with him.

JUDGE WISDOM:

Let's not linger too long, after all, he could have waited 59 days.

MR. HUPPENBAUER:

Yes, sir.

BY MR. HUPPENBAUER:

Q Then the only damages you feel you will probably suf-

fer is if the city would take over your system you might be forced to pay higher rates; is that correct?

A No, sir, I wouldn't say that would be completely correct. I would say anytime there are no taxes involved every registered voter should certainly be allowed to vote irregardless of this particular situation.

Q Have you voted in any other bond election within the State of Louisiana while you have been a resident here?

A I would—I think so, some years ago.

Q Were you a property owner then, sir?

A Yes, sir.

MR. HUPPENBAUER:

We have no further questions.

JUDGE WISDOM:

[139] Very well, Mr. Watkins?

[139] Very well, Mr. Watkins?

MR. WATKINS:

I have no questions of Mr. Cipriano.

JUDGE WISDOM:

Very well.

Step down, Mr. Cipriano.

Are there any further witnesses?

Mr. Huppenbauer, you have no witnesses?

MR. HUPPENBAUER:

We have no further witnesses.

JUDGE WISDOM:

Very well, you may proceed with the argument.

MR. WATKINS:

May it please the Court, in a brief resume of the skeletal facts and not the entire memoranda, the action is brought by Mr. Cipriano who is a resident and a duly registered and qualified voter in the City of Houma. The plaintiff does not own any real property, nor does he pay any ad valorem taxes on such prop-

erty. On October 24, 1967, an election was held pursuant to the authority cited for the issuance of utility revenue bonds by the City of Houma and that under the applicable statutes the election was specifically limited to resident property taxpayers. Plaintiff and all similarly situated persons were prohibited from
[140] voting in the election. He makes special note of the fact that this was a utility revenue bond election and was held under the provisions of Sub-Part C, Part 1, Chapter 10, Title 33 of the Louisiana Revised Statutes. The said statute provides that the bonds authorized by this election to be issued can be repaid only and exclusively from the income tax and revenues derived from the operation of the utility, and because of this limitation, this statute effectively prohibits the imposition of any taxes, ad valorem or otherwise, which may be used in whole or in part to retire any portion of these bonds. The only effective remedy allowed by law on these bonds is for receivership of the utility, and the receiver could increase the rates and manage it until the bonds are paid off. Because of this a property owner should have no greater stake or interest in the election than a non-property owner, as neither his property nor his property rights can in any way be adversely affected by the outcome of this election. It is plaintiff's position that the provisions of the Constitution and statutes of the State of Louisiana requiring the ownership of property and the payment
[141] of taxes thereon as a condition of voting in a revenue bond election invidiously discriminate against plaintiff and the entire members of his class, who together represent more than 59 percent of the voters of the City of Houma.

JUDGE WISDOM:

You distinguished in kind a bond issue from other kinds of taxes?

MR. WATKINS:

Yes, sir, your Honor.

This is not an ad valorem and cannot impose a

burden upon the property owner, this cannot impose a burden on the property.

We will cite to the Court a case we think offers him a distinct advantage and invites him to go out and impose an obligation on another member of the community. The case we rely on is Harper versus Virginia State Board of Elections. The Harper case was concerned with the requirement of a poll tax or a payment of a poll tax as a qualification to vote. This case is concerned with the requirements or the payment of a property tax as a qualification to vote. In the Harper case the Supreme Court concluded that a state violates the equal protection clause whenever it
[142] makes the qualifications of a voter dependent upon a payment of any fee. "Voter qualification have no relation to wealth nor to paying or not paying this or any other tax," closed quote from the Court.

The Court further declared that "The interest of the state when it comes to voting, is limited to the power to fix qualifications. Wealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process. Lines drawn on the basis of wealth or property, like those of race are traditionally disfavored."

We maintain—

JUDGE WISDOM:

Your position then is that this was an improper classification because the—the limitation to property holders bears no relation to the tax or to the bond issue?

MR. WATKINS:

Right. The limitation to the property owner, your Honor, has no relationship to this bond issue in any way that this bond issue does not affect a non-property owner. They affect both the property owner and the non-property owner identically with the exception
[143] that they maintain it favors the property owner because he is going to go out, your Honor, and vote this general burden on the general community and

protect his low, favorable tax rate. He will know that these funds go into the general fund of the city if there is any over and above, and it will operate the city, and it's an invitation to go out and vote this issue in to prevent the city from coming back and asking him for property taxes. We maintain the record shows this and I believe our stipulation includes the millage rates of the City of Houma, and these advertisements I wanted in the record, which the City advertises; we have the lowest rate in the state, you please go out and vote to protect your lowest assessment.

JUDGE RUBIN:

Is there any evidence, Mr. Watkins, that this would be the result of the bond issue to increase the rates or revenue rates for utility service at the expense of the property holder?

MR. WATKINS:

No, sir, there is—as I understand, your Honor, to increase the utility rates at the expense of the property holder—

[144] JUDGE RUBIN:

Isn't that your argument—I am sorry—to the benefit of the property holder, isn't this your argument that this would be the result?

MR. WATKINS:

I certainly say this, your Honor, it certainly could be the result, and in view of the testimony we have taken in the record today and in all probability it will be the result.

JUDGE WISDOM:

Isn't the opposite result, too, with two companies functioning that the rates might be lower and the service better because of competition?

MR. WATKINS:

With two companies?

JUDGE WISDOM:

Well, two operations.

MR. WATKINS:

Well, of course, your Honor, while we don't necessarily think this is an essential ingredient of our case, I agree with your Honor that the operation of more than one company serves to—may invite competition and keep lower uniform rates under our normal system of economic development in the country, but we don't think whether or not this would impose, whether
[145] there—where this is going to fix a statutory imposition or a definite imposition of an increased rate is an essential part of this case. The fact that there is a classification and the 14th amendment in our argument and our opinion demands equal treatment of all voters whether it's an election to elect a mayor, to elect a president or to amend—

JUDGE RUBIN:

What about to vote a millage tax for schools?

MR. WATKINS:

Sir?

JUDGE RUBIN:

What about to vote a millage tax for schools?

MR. WATKINS:

Your Honor, if we are talking about an ad valorem millage tax, the requirement of property ownership as a qualification would have a reasonable but not arbitrary relationship to the proposition, because we are imposing a burden on the property owner. It may be said when we put a millage tax on his property alone in this case there is no conceivable way that the property owner can be adversely affected in any respect under the statute under which this bond election was called. We maintain that there is no reason-
[146] able relationship between property ownership in the election and the intelligent use of the ballot, and

also the ownership of property and the payment of taxes thereon, can be considered only with reference to the additional burden which may be imposed on the property owner which is not here, then it should not be considered at all.

Here we have shown and argued from the record that not only is there no possibility of an additional burden, there is the entire probability of an advantage to the property owner.

JUDGE RUBIN:

You don't believe the ownership of property has any rationale to the kind and degree of utility and amount of property service?

MR. WATKINS:

I say in fact over 59 percent of the registered and qualified voters in the City of Houma pay utilities to someone, and under the city's avowed declaration, they are going to take over all of the utilities, and so all of these people who don't own property will have the same relationship to the payment of a utility bill as will a property owner.

[147] If I have a trailer even, your Honor, and I am plugged into the city's system, I have the same relationship in paying my utilities. If I rent a house—

JUDGE RUBIN:

So does the non-resident, he can't vote either.

The question is whether the line is drawn in such a way to include rationally those that have a measurable degree of interest, whether it's rational or irrational classification, so you may in any event exclude some from voting who have an interest and include some who do not have an interest in any classification.

MR. WATKINS:

Yes.

JUDGE RUBIN:

My question is: Is there no rational relationship

between the ownership of property and the kind and quality of utility service?

MR. WATKINS:

I say, your Honor, there is no rational basis sufficient to justify the deprivation of a man's right to vote between the ownership of property and the use or payment of a utility service anymore than there is between a man who doesn't own that property and uses and pays his utility service when he rents a build-
[148] ing. They are paying the same utility service to theoretically the same customer and there is absolutely no basis for the ownership of property to be discussed in this particular instance.

JUDGE WISDOM:

It may be rational to include non-property owners who rent houses or homes in Houma, or it may be rational to include summer residents, but that doesn't mean it's irrational to base—or does it mean that it's rational to base the election on property holders—

MR. WATKINS:

Well—

JUDGE WISDOM:

—to limit it to property holders?

MR. WATKINS:

We maintain, your Honor, that the ownership of property and the payment of a tax simply has no reasonable class—connection with the subject of this election.

JUDGE WISDOM:

The property owners have electric lights and they have gas in their kitchens.

MR. WATKINS:

[149] Sir?

JUDGE WISDOM:

The property owners have electric lights and they have gas in their kitchens and water, it seems to me that there is a connection there.

MR. WATKINS:

Sir, the non-property owner, your Honor, has the same identical connection, and what we are saying, there is no greater connection, and since there is no greater connection, there is no reasonable basis for excluding a man from the franchise.

JUDGE COMISKEY:

I think that's the equal protection clause—

MR. WATKINS:

Sir?

JUDGE COMISKEY:

—want to go that far—

MR. WATKINS:

Sir?

JUDGE COMISKEY:

They always look for the concept whether or not there is any rational relationship or whether or not the relationship or law is absolutely invidious in this case to your client, not whether or not there is any reasonable relationship. We could find all kinds of
[150] reasonable relationships between non-property and property owners. It's more than a reasonable relationship that the law must be invidious to your class. Mr. Cipriano—

MR. WATKINS:

What, your Honor, could be more invidious to allow a class of 41 percent of the people in the City of Houma to go out and impose the operation of this community on other people to his personal advantage? What could be more invidious? What could be more

unfair? What could be operated, your Honor in more of a manner of subterfuge which is not direct, it's the obvious and almost necessary result—

JUDGE COMISKEY:

There is an answer, he voted on councilmen, the councilmen set the machinery in setting up the election.

MR. WATKINS:

He appreciates the fact that a franchise is granted. It should be granted without discrimination, and the—if the legislature chose to have no election limits, every man with an equal interest in revenues would have an equal opportunity to vote on—for the members of the city council, but once the state grants
[151] the franchise in this type of instance it must grant it with equality to all people in the class and without discrimination.

JUDGE RUBIN:

Mr. Watkins, is there any data available to you, I don't believe it is in the stipulation, by which we could determine what percentage of the electors who were eligible to vote in Houma are property owners and what percentage are not property owners?

MR. WATKINS:

I think, your Honor—

JUDGE RUBIN:

In other words—

MR. WATKINS:

—we have that in the stipulation. If I may, I think the stipulation—would the Court pardon me for one moment.

JUDGE WISDOM:

You have that in the last paragraph, I think, the total number of property taxpaying voters.

MR. WATKINS:

I think we have the total number of registered voters who do not and the total number of registered voters who do.

[152] JUDGE RUBIN:

I see that, thank you.

Is there—let me just ask you one more question. This information would enable us to determine what percentage of the registered voters were property owners, it would also enable us to determine the number of people who have utility service, but it doesn't enable us to determine what property taxpaying voters are also people who have utility service. I take it almost all of the property taxpaying voters would be utility customers.

MR. WATKINS:

I would say, your Honor, that would, offhand, appear to be a fair interpretation; almost anyone who owns—not necessarily, there may be some unimproved property. I would say that on any improved property the man is taking utilities, that would be reasonable to assume.

JUDGE RUBIN:

If he is a resident only, even though he is likely to be residing someplace using utilities.

MR. WATKINS:

Right, his improved property, your Honor.

JUDGE RUBIN:

[153] Approximately 57 percent of the utilities customers in fact were eligible to participate in the election, 6,700 utilities customers—

MR. WATKINS:

Yes, sir.

JUDGE RUBIN:

—and 4,600 property taxpaying voters, about 70 percent of the utilities customers or 60 percent were eligible to vote in the election?

MR. WATKINS:

Of the utility customers of the City of Houma, this percentage had the opportunity to vote in the election, but again, your Honor, we maintain the city, according to their records and the testimony of Mr. Cipriano, will take over all utility customers in the City of Houma, there is their declared intention, and they have initiated steps to this end. So to use this percentage in this particular case, this is—we are taxing all of the voters in the City of Houma, and all equally to run the city. By allowing the property owners to do so, we are inviting him to go out and reduce his millage by putting this on a general fund basis. I say to give everybody a chance to vote on this, and if this election were to pass, then it would be the
[154] declaration of all of the citizens who have an equal interest in the general revenues of the city and an equal interest in the public affairs of that city have had an opportunity to pass on it, and they may have, of necessity—not of necessity but they may have passed this election, then there would be no argument; but to limit it to one group who has a distinct advantage to himself in going out and doing this and passing this election, we certainly maintain is discriminatory in the worse way.

We submit in the instant case where every registered voter has an equal stake and interest in the city utility system and revenues that equal protection demands that they have an equal opportunity to vote.

JUDGE COMISKEY:

I notice now in your stipulation you say your client does not own property, real property, or pay ad valorem tax on real property, I assume he owns no personal property, no ad valorem—

MR. WATKINS:
I assume not in—

JUDGE COMISKEY:
His testimony seemed to broaden his—

[155] MR. WATKINS:
I couldn't give you an answer on that. Generally in Terrebonne Parish there is no personal assessment.

JUDGE WISDOM:
We have a small tax here.

MR. WATKINS:
At least to my knowledge I know it is not on me, I have never paid this and, of course, I own, you know, personal property, you know, automobiles, but neither myself nor anyone I know of pays this or has ever paid it in the parish for that matter.

JUDGE COMISKEY:
You don't even have a tax on automobiles?

MR. WATKINS:
No, sir.

JUDGE COMISKEY:
If you had that tax, then he would be able to vote?

MR. WATKINS:
Not in Terrebonne, business is—I am talking about individuals, no.
Thank you.

JUDGE WISDOM:
Mr. Huppenbauer.
We will give you a little for rebuttal.

MR. HUPPENBAUER:
[156] May it please the Court, it has been indicated that counsel for plaintiff's case rests wholly on an ex-

tension of the doctrine from the Harper case. In the Harper case I believe the Court must concede it dealt really with the competency of the voter or perhaps his affluence, and every case relied on by the Supreme Court of the United States dealt with election of officials and reapportionment. We feel there is a very distinct rationalization when the interest of the voter in this instance as opposed to the interest of a voter in an election or candidate for two reasons:

No. 1, as has been admitted by counsel, if the utility system which is owned by the city doesn't produce sufficient revenue to carry the burden of the bonds used for the purchase of this facility as well as additional revenue to supplant the city, then the burden of tax—

JUDGE WISDOM:

Suppose the city makes money, what happens to it?

MR. HUPPENBAUER:

The money goes into the general fund for the benefit of all citizens.

JUDGE WISDOM:

He would have an interest in this, too—

[157] MR. HUPPENBAUER:

Yes, sir.

JUDGE WISDOM:

Whether or not he owned property, that would indicate perhaps he should have an opportunity to vote for or against it?

MR. HUPPENBAUER:

But if he desires to vote, say to grant an unlimited amount of bonds to his advantage, perhaps to have an additional flow of revenues flow for his benefit, you have got to consider the other point that the control to some extent on the issuance of bonds must

be placed in people who have a vested interest. It affects the general credit of the city even though the bonds may be limited in security, still the credit is affected and if a default revenue bond it has a great affect on the ad valorem bond which is a bond tax—

JUDGE WISDOM:

It seems to me anyone living in the city whether or not he owns property may have an interest in the credit of the city as to how well it is functioning.

MR. HUPPENBAUER:

It may, but he has no monetary interests that he will be deprived of by the payment of taxes. We feel
[158] the vested interest of the taxpayer which, of course, is the same interest that the taxpayer is burdened with in general obligation bonds, the legislature saw fit to impose this—this one limitation in revenue bonds, like it has done under the constitution, the general obligation bond; but furthermore, this is not the only reason bonds can be or should be or are issued. The vote of the people is only one of many limitations, even though the people may vote the bond, it's the governing authority that must issue and sell the bond, the sole intention, the sole purpose is vested in the governing authority. He, like everybody else, has the right to elect his officials. The governing authority fixes the rates. There is no control by the Louisiana Power Commission or anyone else, the rates certainly can't be irrational as far as classification, as long as there is no abuse in classification by the city officials in fixing rates. Whether or not bonds are issued or not, city officials—the governing body fixes rates in any manner say besides controlling issue and sale of bonds. We have other constitutional provisions, limit of interest, limit of principal payment term of bonds, all of these are controls and
[159] limitations on the issuance of bonds, and the requirement of a vote is only one of many, so this is not the heart of the bond issue.

The bond issue really is issued by the governing

authority for purposes that it sees fit to improve the utility system of this city.

JUDGE COMISKEY:

Yes, but you will agree the one that counts is the vote, without the vote all the others would not issue the bonds.

MR. HUPPENBAUER:

The vote doesn't count either.

JUDGE COMISKEY:

No, no?

MR. HUPPENBAUER:

Without the tax board you cannot even vote, without the vote they can force them to—

JUDGE COMISKEY:

Even after the people vote favorably the council could veto—

MR. HUPPENBAUER:

The council can decline to not issue any bond they are asking for authority to do something they deem—they also have the state bond tax board to give them [160] approval.

JUDGE COMISKEY:

So the votes in the election are just advisory, so to speak, to the council?

MR. HUPPENBAUER:

It's a limitation, because if the people see fit—maybe they are going way out of bounds to issue more bonds they feel advisable, they can curtail it but they can't force them to, so the real control is vested in the governing authority, which is the elected political officials that everyone who is a registered voter has—

JUDGE WISDOM

You know it's more than advisory, the council cannot act without the approval—

MR. HUPPENBAUER:

Correct, but even with the approval they can decline to act.

JUDGE RUBIN:

It's veto,—

JUDGE WISDOM:

Veto—

MR. HUPPENBAUER:

It's not wholly based on the vote, it's one of the authorizations, but so is the other limitations of the [161] state bond and tax board, the market, other things govern the issuance—

JUDGE RUBIN:

You can characterize it as veto.

MR. HUPPENBAUER:

Sir?

JUDGE RUBIN:

Isn't the apt characterization veto, you can prevent the property owner—the election can prevent it from being issued but it cannot require it?

MR. HUPPENBAUER:

Correct, sir, it cannot require it.

We feel it would be an unreasonable extension of the Harper doctrine to involve this type of issue. We don't—we don't see that equal protection is really at issue in the case, but if it is at issue, we feel that the Court must look to the—this particular case, this particular plaintiff and the effect of this doctrine.

JUDGE WISDOM:

Harper may be distinguishable, but suppose there were no Harper, wouldn't the argument still be valid that you are basing a vote on—on a classification, whether there is no real difference between the class

of property owner and non-property owner so far as
[162] revenue bonds are concerned?

MR. HUPPENBAUER:

We belive there is a distinction because of the interest the property taxpayer—

JUDGE WISDOM:

The only thing you have been able to say so far, if the operation is not a success, if the utility is not a success and loses money, then the burden would fall on the property holders?

MR. HUPPENBAUER:

Correct. The credit of the city, higher interest rates—

JUDGE WISDOM:

Not direct but indirect effects on the non-property holder.

MR. HUPPENBAUER:

So is the effect of the non-property holder, it's indirect effect, he can still control his rights by electing councilmen who will attach reasonable and just rates on utility services. The bonds wouldn't govern that, it's the governing authority that really governs that.

We contend the vote is only one of the other limitations. As Judge Rubin said, it's a veto power and it can deny the council to do something, but it cannot
[163] enforce them to do it, and we feel that equal protection is not here because of the distinction between capacity and affluence versus really property interest of people owning real property in the city, and we submit that the doctrine should not be extended to this case.

JUDGE WISDOM:

Mr. Watkins:

MR. WATKINS:

Your Honor, just one or two points with regard to veto or advisory. True, when we look at human nature and we consider this in the practical light of what we know about human beings, there is really not a veto. The city council has declared their intentions for all practical matters of issuing this before they get to a vote. They have said, why, they have studied this, they have ordered large surveys from engineers, so as a practical matter, they are going to issue them. The real key is that this is an essential element, this vote. It is an essential element and without this vote they cannot be issued. If it's truly advisable, I say would it not be better to get the advice of the good citizens in the community and have the benefit of all the thinking on it? And the second [164] point, your Honor, with respect to this indirect effect of the property owner, if the full faith and credit of the city is not affected, counsel argues that by these bonds, by these bonds, counsel argues that, yet a failure of this utility might actually affect the full faith and credit and impose a tax on the—impose an ad valorem tax without him voting on it, it could affect him no more direct than his going out and electing a spendthrift and the council going out and running into debt, that would hurt the city as much as a bad utility system. So that we think these arguments bear no material relationship to the question at hand, and that the true and controlling point is that there is no reasonable basis for the distinction in the issue between a property owner and a non-property owner, and that consequently each registered voter should be given an equal opportunity to vote.

JUDGE RUBIN:

Let me ask you for your comment if you have one on the arguement offered in the brief by the defendants that the granting of a declaratory judgment in the case would imperil the validity of outstanding bond issues.

[165] MR. WATKINS:

Your Honor, we think that is in no way applicable in the case, for the controlling—this bond issue is the bond issue we are presently talking about, as far as the declaratory judgment, it would be necessarily—

JUDGE WISDOM:

—hold on it, we wouldn't have any jurisdiction unless you attack the state constitution, we wouldn't have three-judge court jurisdiction.

MR. WATKINS:

No, sir, but the declaratory judgment would only have a prospective effect. In the Linkletter case, counsel cited, as I appreciate the Supreme Court ruling, civil and criminal matters are treated identically and that they don't offer retrospective affect in criminal, and there is no necessity for this court ordering or offering retrospective affect in this type of case.

JUDGE WISDOM:

The general rule is retrospective.

MR. WATKINS:

Sir?

JUDGE WISDOM:

It seems when we apply it only prospectively—

[166] MR. WATKINS:

Your Honor, I say that once the 60-day period has expired, then can no one attack this,

JUDGE WISDOM:

Even on constitutional grounds?

MR. WATKINS:

We would say this, your Honor, as far as destroying the financial stability of the state, we don't see how this would have any affect on any bond issue passed, bonds sold, the 60-day period passed, not as

a matter of res judicata and if this Court uses this particular case, it need not issue any retrospective edict or make it retrospective. We don't think it necessary to the satisfaction of this case and all future cases in this particular instance.

JUDGE WISDOM:

How much time will you need or would you care to submit supplemental briefs in the matter?

MR. WATKINS:

Yes, your Honor, I have only today received a supplemental note this afternoon from Mr. Huppenbauer which I haven't yet had an opportunity to read.

JUDGE WISDOM:

How much time would you require for a supplemental brief?

[167] MR. WATKINS:

I would say 10 to 15 days, would that be sufficient for the Court?

JUDGE WISDOM:

And Mr. Huppenbauer, how much time would you require?

MR. HUPPENBAUER:

We don't feel we need to supplement our brief.

JUDGE WISDOM:

You may change your mind after you get a copy of it.

MR. HUPPENBAUER:

We would like 10 days after.

JUDGE WISDOM:

Suppose you file a brief within 15 days and suppose—

MR. WATKINS:

Yes, sir.

JUDGE WISDOM:

—opposing counsel will have another 10 days. Is there a question of time here? Is time of the essence?

MR. HUPPENBAUER:

Time is somewhat of the essence.

JUDGE WISDOM:

Why don't you get yours in say in—

MR. WATKINS:

[168] Ten days.

JUDGE WISDOM:

—10 days, and you get yours in 5 days thereafter.

MR. HUPPENBAUER:

Yes.

JUDGE WISDOM:

Mr. DeJean, you may have the same time.

MR. WATKINS:

I haven't seen counsel's amicus curiae brief, we don't have a—would the plaintiff be entitled to any reply to the amicus curiae brief at the same time?

JUDGE WISDOM:

Why don't you do that, you still have 5 days before Mr. Huppenbauer's answering, if he decides he should answer your brief.

In the meantime the Court will stand adjourned under the usual orders.

(Whereupon, Court adjourned.)

[169] CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings had in the above titled and numbered cause, taken by me on March 29, 1968 to the best of my ability and understanding.

/s/ GARY JON DAVIS
Gary Jon Davis
Official Court Reporter
United States District Court
Eastern District of Louisiana
New Orleans Division

UNITED STATES DISTRICT COURT
Office of the Clerk
Eastern District of Louisiana
New Orleans, Louisiana

CLERK'S CERTIFICATE

I, A. DALLAM O'BRIEN, JR., Clerk of the United States District Court for the Eastern District of Louisiana, do hereby certify that the foregoing 169 pages contain and form a full, true and complete record in the below numbered and entitled cause:

Joseph Q. Cipriano
versus,
City of Houma, G. Leslie Broussard, Mayor, Christian L. Olivier, Peter Bourgeois, Jr., Samuel Lusco and Wilbert P. Bonvillian
Civil Action 67-1853

WITNESS MY HAND and the seal of said Court at the City of New Orleans, Louisiana, this 30th day of October 1968

A. DALLAM O'BRIEN, JR., CLERK
By: /s/ A. F. PAGE, JR.
Deputy Clerk

